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A
VINDICATION
OF HER GRACE c^d
Mary Dutcheſs of Norfolk.
WITH A
PERFECT JOURNAL
OF THE
PROCEEDINGS
BEFORE THE
House of LORDS,
BETWEEN
The Duke and Dutcheſs,
ALSO
Some Observations on the Late **TRIAL**
OF
Mr. Germian, &c.
OCCASIONED
By ſeveral Libellous **PAMPHLETS**, and other
Imperfect **ACCOUNTS**, Published and Diſ-
perſed, to the Prejudice of HER GRACE.

L O N D O N :
Printed in the Year, **MDCXCIII.**

JAN 23 1912

THE P R E F A C E.

THere have been lately printed, and made publick, Two scandalous Pamphlets; the one under the Title of [The Proceedings before the House of Lords, between the Duke and Dutchess of Norfolk:] The other is called [The farther Depositions and Proceedings in the House of Lords, in the Affair of the Duke and Dutchess of Norfolk; with the Bill of Divorce. Now these two Papers are so far from a faithful Narrative of the said Proceedings, that what with confounding the Order of the Transaction, and disguising the Truth of Things, by industrious Omissions, gross Imperfections, and wilful Mistakes. This pretended Account has made it absolutely necessary, even for the sake of common Justice, to set the World right in the Story: To which end the entire Series of this Affair is here set forth, from Point to Point, just as it passed before their Lordships, and stands upon their Journal; with such Notes upon the Evidence on both sides, as the Nature of the Case requires, and as the Reason of it will fairly bear.

The Reader will observe here, upon this Relation, that the two Principal Witnesses produced against the Dutchess of Norfolk, are Rowland Owen and Margaret Ellwood, for they swear positively to the stress of the Question, whereas all the rest is but Circumstantial, and made use of only for Aggravation, Prejudice, and Clamour: So that upon invalidating their Testimony, the main Cause falls effectually to the Ground, saving only the unavoidable Misfortune of many an Innocent Person, that suffers under the Impossibility of proving a Negative; there being no Fence against uncharitable Presumptions. Now taking this for granted, (as it is not to be denied) the Reader is only desired to lay seriously to Heart the Impossibility of the Fact that is sworn against the Dutchess, in some Cases, and the utter impossibility of it to be true in others: The Tampering and Practice that has been used, the Inconsistency of the Witnesses with themselves, their Character, and Credit, &c. (one of them (Ann Burton) being trapt in a false Oath, out of her own Mouth, upon the very place of Examination.)

The Reader will also take notice, that of Twenty Six Witnesses produced in Favour of the Duke; one half of them are Principals, and the other only Seconds. Peter Scriber, Andrew Anderson, Robert Hemming, John Reynolds, and Margaret Foster, are five of the former Number; but speaking little or nothing to the Merits of the Question, it was not thought worth the while to offer Exceptions to their Testimony, though to the other Eight, that is to say, Owen, Ellwood, Hudson, Burton, Varelst, Tho. Foster, Lloyd and Wadsworth; there were several Witnesses on the behalf of the Dutchess to invalidate their Credit (viz.) Two to the First, Six to the Second, Two to the Third, Four to the Fourth, One to the Fifth, Two to the Sixth, Two to the Seventh, and Six to the Last. It

is very remarkable also, after all these Exceptions to every one of the Duke's principal Witnesses, that the Testimony of the Dutchess's Witnesses passed current without any contradiction, saving only that Henry Daggley, and John Hoskins were examined against the Credit of John Hall, in the Case of Jane Wadsworth (leaving four Witnesses more in the same Case untouch'd); and Edith Sawbridge, against the Testimony of Mrs. Judith Sroun, which Depositions the Reader will find to be of little or no moment, as to the matter in hand. This puts it past Dispute, that they had nothing more to say against the Witnesses for the Dutchess, but stop at these three for want of farther Pretence. The Result in short is this, that all the material Witnesses to the Charge are Impeached, and the Evidence on the other side stands untainted. To say nothing of the unanswerable Reasons that prevailed with the Lords finally to reject the Bill, especially considering the Solemnity of the Proceedings: For the Cause was kept on from the 7th of January to the 17th of February following. All the Lords in and about the Town being summon'd, by an Order of the House bearing Date Die Veneris Feb. 12. 1691. to attend at Twelve of the Clock on the Tuesday following. And the Officers that summon'd them to give an Account of what Lords they summon'd; pursuant to which Order their Lordships met according to the Appointment: and after some previous Debates, Adjourned till the next Day, when the Depositions on both sides were read at the Table by the Clerk, as will be seen more at large upon the following Journal. And after a long and solemn Debate, The Question being put, Whether the Bill entituled An Act to Dissolve the Marriage of Henry Duke of Norfolk, Earl Marshal of England, with the Lady Mary Mordant, and to enable the said Duke to Marry again, shall be read a second time.

It was Resolved in the Negative.

A True ACCOUNT of the Proceedings, before the House of Lords (from January the 7th 1691, to the 17th of February following) between the Duke and Dutchess of Norfolk, upon the Duke's Bill, Entituled, An Act to Dissolve the Marriage, &c.

The 7th of January the said Bill was lodg'd in the House of Lords.

The 8th of January.

THE Dutchess of *Norfolk*, having received Intimation, that the Duke of *Norfolk* was this Day offering a Bill to the House of Lords, for Dissolving the Marriage between them, and that the same was under Debate before their Lordships; She was advis'd to present the following Petition.

To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled,

The Humble Petition of Mary Dutchess of Norfolk.

Sheweth,

THat your Petitioner being informed, that the Duke of *Norfolk* is at this time offering a Bill to your Lordships, for Dissolving the Marriage between him and your Petitioner,

Your Petitioner Humbly prays she may be heard by Your Lordships, before such Bill be received.

And Your Petitioner will ever pray, &c.

M. Norfolk.

Upon which Petition their Lordships were pleas'd to make the following Order (*viz.*)

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Die Veneris 8 Januarii, 1691.

A Bill having been offered to this House, on the behalf of the Duke of *Norfolk*, to dissolve the Marriage between the said Duke and his Dutchess; It was ordered by the Lords Spiritual and Temporal in Parliament assembled, that Her Grace shall have notice thereof, and may be heard, by her Counsel, at the Bar of this House, on *Tuesday* next at 12 of the Clock; what she hath to object against the receiving the said Bill; at which time the said Duke may also be heard by his Counsel, for the said Bill, if he shall think fit.

Matth. Johnson, Cler' Parliamentor'.

Die Martis 12 Januarii, 1691.

After hearing Counsel this day, at the Bar, what they could object for her Grace the Dutchess of *Norfolk*, against the receiving of a Bill offered by his Grace the Duke of *Norfolk*, to dissolve the Marriage between him and his Dutchess: As also the Counsel of his Grace the Duke of *Norfolk* for receiving the said Bill. And after Consideration of what was offered by Counsel, on either side, and a long Debate thereupon:

This Question was put.

Whether the Duke of Norfolk's Bill should be received? It was Resolved in the Affirmative.

Which Bill is as followeth.

An Act to Dissolve the Marriage of Henry Duke of Norfolk, Earl Marshal of England, with the Lady Mary Mordant, and to enable the said Duke to Marry again.

FOrasmuch as *Henry Duke of Norfolk*, and *Earl Marshal of England*, having been Married to the Lady *Mary Mordant*, hath made full proof that his said Wife is guilty of, and hath committed Adultery on her part: And forasmuch as the said *Henry Duke of Norfolk* hath no Issue, nor can have any probable expectation of Posterity to succeed him in his Honours, Dignities and Estate, unless the said Marriage be declared void, by Authority of Parliament, and the said Duke be enabled to Marry any other Woman. The King and Queens Most Excellent Majesties, upon the Humble Petition of the said *Henry Duke of Norfolk*, having taken the Premises into their Royal Consideration, for divers weighty Reasons, are pleased that it be Enacted, And be it Enacted, by the King and Queens Most Excellent Majesties, and by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Marriage between the said *Henry Duke of Norfolk* and the said Lady *Mary* his Wife, shall from henceforth be null and void;

and

and is by Authority of this present Parliament Declared, Adjudged, and Enacted to be null, and void, to all Intents, Constructions, and Purposes, whatsoever. And that it shall and may be lawful to, and for the said *Henry Duke of Norfolk*, at any time, or times, hereafter, to Contract Matrimony, and to Marry (as well in the Life-time of the said Lady *Mary*, as if she were naturally dead) with any other Woman, or Women, with whom he might lawfully marry, in case the said Lady *Mary* was not living: And that such Matrimony, when had and celebrated, shall be a good, just, and lawful Marriage, and so shall be adjudged, deemed and taken, to all Intents, Constructions and Purposes. And that all and every Children, and Child, born in such Matrimony; shall be deemed, adjudged and taken, to be born in lawful Wedlock, and to be Legitimate and Inheritable, and shall inherit the said Dukedom of *Norfolk*, Office of Earl Marshal of *England*, and all other Earldoms, Dignities, Baronies, Honours, and Titles of Honour, Lands, Tenements, and other Hereditaments, from, and by, their Fathers, Mothers, and other Ancestors, in like manner and form, as any other Child, or Children, born in lawful Matrimony, shall or may inherit, or be inheritable, according to the Course of Inheritances used in this Realm: And to have and enjoy all Privileges, Preheminencies, Benefits, Advantages, Claims and Demands, as any other Child, or Children, born in lawful Wedlock, may have, or claim, by the Laws or Customs of this Kingdom. And be it farther Enacted, That the said *Henry Duke of Norfolk* shall be Intituled to be Tenant, by Courtesy, of the Lands and Inheritance of such Wife, whom he shall hereafter marry: And such Wife as he shall so marry, shall be Intituled to a Dower of the Lands and Tenements of the said *Henry Duke of Norfolk*, and of such Estate whereof she shall be Dowable, as any other Husband, or Wife, may, or might claim, have, or enjoy: And the Child, or Children, born in such Marriage shall, and may, derive and make Title, by Descent or otherwise, to, and from any their Ancestors, as any other Child, or Children may do, any Law, Statute, Restraint, Prohibition, Ordinance, Canon, Constitution, Prescription or Custom, had, made, exercised, or used to the contrary of the Premises, or any of them, in any wise notwithstanding. And be it further Enacted, by the Authority aforesaid, That the said Lady *Mary* shall be, and is hereby barred and excluded of, and from all Dower and Thirds, and of, and from, all Right and Title of Dower, and Thirds, unto, or out of any the Honours, Mannors, Lands or Hereditaments of the said Duke. And that all Conveyances, Jointures, Settlements, Limitations and Creations of Uses and Trusts, of, into, or out of, any Honours, Mannors, Lands or Hereditaments, at any time heretofore made by the said Duke, or any of his said Ancestors, or Trustees, unto, or upon, or for the use or benefit of the said Lady *Mary*, or any the Issue of her Body, or for raising, discharging or counter-securing any the Mannors, Lands or Hereditaments of the said Lady *Mary*, or any of her Ancestors, shall be from henceforth utterly void, and of none effect: And all and every the said Honours, Mannors, Lands or Hereditaments of the said Duke, or any of his Ancestors, or Trustees, shall from henceforth remain, and be to, and for, the use and benefit of the said Duke, and such other Person, or Persons, and for such Estates and Interests, and in such manner and form, as if the said Lady *Mary* was now naturally dead, without any Issue of her Body. And also, That all Limitations and Creations, of any Use, Estate, Power or Trust, made by any of the Ancestors of the said Lady *Mary*, unto, or for the use or benefit of the said Duke;

Duke, his Heirs or Assigns, out of any the Mannors, Lands or Hereditaments, of any of the Ancestors of the said Lady *Mary*, shall be from henceforth void and of none effect.

13 *Januarii*, 1691.

THe Duke of *Norfolk's* Bill aforesaid, having been yesterday received and read. The Dutcheſs of *Norfolk* presented the following Petition to Their Lordships this Day.

To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled,

The Humble Petition of Mary Dutcheſs of Norfolk,

Sheweth,

That your Petitioner being Married to the Duke of *Norfolk* 14 Years and upwards, never had, or received, from her Husband, any Intimation of a Misdemeanor, on her part, against him; which, joined to her Innocency of the Crime mentioned in the Bill, makes this Proceeding before your Lordships very surprizing to her: Her Person, Estate, and Honour, which is more dear to her than her Life, being now brought in question.

Your Petitioner humbly prays she may have a Copy of the particular Charge against her, with the Names of the Witnesses, and reasonable time allowed her to answer the same, before any farther Proceedings upon the Bill.

Mary Norfolk.

Upon which Petition the following Order was made.

Die Mercurii 13 Januarii, 1691.

UPon reading the Petition of *Mary Dutcheſs of Norfolk*, It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That *Sir Richard Reynes*, *Sir Charles Hedges*, and *Dr. Oxenden*, do attend this House to Morrow at ten of the Clock in the Forenoon.

Matth. Johnson, Cler' Parliamentor'.

14 *Januarii*, 1691. After having heard the Civil Lawyers, the following Order was made.

Die Jovis 14 Januarii, 1691.

After hearing this day the Civil Lawyers, pursuant to the Order Yesterday, upon reading the Dutcheſs of *Norfolk's* Petition, It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That his Grace the Duke of *Norfolk* shall bring in the Charge against his Dutcheſs, and particularly to the Person, Time and Place, by *Saturday* next, at 12 of the Clock.

Matth. Johnson, Cler' Parliamentor'.

16 Jan:

16 Januarii, 1691.

This Day the Duke of *Norfolk* brought in the following Charge against his Dutcheſs.

The Charge which Henry Duke of Norfolk, Earl Marſhal of England, doth exhibit againſt his Wife Mary Dutcheſs of Norfolk, before the Lords Spiritual and Temporal in Parliament aſſembled, purſuant to their Lordſhips Order of the 14th of January, 1691, is for the Crime of Adultery.

THe Perſon charg'd to commit the ſaid Crime with the ſaid Dutcheſs, is *John Germaine*, of the Pariſh of *St. Margaret's*, in the Liberty of *Westmiſter*.

The Times when the ſaid Crime was committed, were between the Months of *June* and *December*. 1685, and ſeveral times ſince.

The Places where the ſaid Crime was committed, are at *Whitehal*, *Windſor*, and within the Pariſhes of *St. Margaret's Westmiſter*, *St. Martin's* in the *Fields*, *St. James's*, *St. Ann's* within the Liberty of *Westmiſter*: And in the Pariſh of *Lambeth*, in the County of *Surrey*.

Norfolk, and Marſhal.

Upon which the following Order was made.

Die Sabbati, 16 Januarii, 1691.

UPon reading, this day, the Charge, which *Henry Duke of Norfolk*, Earl Marſhal of *England*, hath exhibited againſt his Wife, *Mary Dutcheſs of Norfolk*, for the Crime of Adultery. It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That her Grace the Dutcheſs of *Norfolk*, do attend this Houſe on *Monday* next, or ſome Perſon on her behalf, then to receive a Copy of the Charge againſt her.

Matth. Johnson, Cler' Parliamentor'.

19 Januarii, 1691.

The Answer of Mary Dutcheſs of Norfolk, to the Charge exhibited againſt her by the Duke of Norfolk, before the Lords Spiritual and Temporal in Parliament aſſembled.

THis Reſpondent is adviſed, that the Charge exhibited by the Duke of *Norfolk* into this Honourable Houſe againſt her, as to Time, and Place, is too general, and is not purſuant, nor doth answer the end of your Lordſhips Order, of the 14th Inſtant, made upon the humble Petition of this Reſpondent. Wherefore ſhe doth humbly hope, and pray, your Lord-

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ships will not oblige her to make any further Answer, till the Duke shall bring in a particular, and certain Charge, as to Time, and Place, against her.

And this Respondent doth the rather humbly insist, That your Lordships would please to require the Duke to be particular, and certain, in these material Circumstances of his Charge against her; for that it appears, by his own shewing therein, that the supposed Crimes objected to her, and alledged to be committed, were above 6 Years before the Bill was offered to this Honourable House: during most of which time, at the advice, and by the approbation of the Duke, was, and continued beyond the Seas, to ease him in his Charge, and Part; He frequently declaring, that when he should be more easy in his Fortune, they should live together.

M. Norfolk.

Upon which Answer the following Order was made. And the Duke's Second Charge delivered in the same Day.

Die Martis, 19 Januarii, 1691.

IT is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That her Grace the Dutches of *Norfolk* shall have a Copy of the Duke's Charge delivered this day against her: And that she, or *Sir Thomas Pinfold*, do attend this House, to Morrow at 11 of the Clock in the Forenoon, to answer to the said Charge.

Matth. Johnson, Cler' Parliamentor'.

Which Copy is as followeth.

The Charge which Henry Duke of Norfolk, Earl Marshal of England, doth exhibit against his Wife Mary Dutches of Norfolk, before the Lords Spiritual and Temporal in Parliament assembled, pursuant to Their Lordships Order of the 14th of January, 1691, is for the Crime of Adultery.

THe Person charged to commit the said Crime with the said Dutches, is one *John Germaine*, of the Parish of *St. Margaret's Westminster*.

The Times, and Places, when the said Crime was committed, were at *Whitehall*, in the Months of *June, July, August*, some, or one of them, in the Year 1685. At *Windsor* in the Months of *July, August, or September*, some, or one of them, in the said Year 1685. In the Parish of *St. Margaret's Westminster*, *March, April, May, June*, some, or one of them, in the Year of our Lord 1690. And in the said Parish of *St. Margaret's Westminster*, in the Months of *July or August* 1690. In the Parish of *Lambeth*, in the County of *Surrey*, in the Months of *May, June, July, August*; some, or one of them, in the Year 1691.

Norfolk, and Marshal.

Upon which, the next Day (*viz.*) the 20th of *January*, 1691, the Dutches of *Norfolk* presented the following Petition.

To

To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled,

The Humble Petition of Mary Dutcheſs of Norfolk,

Sheweth,

That your Petitioner was ſerved with an Order of this Honourable Houſe, late laſt Night, to attend your Lordſhips this Day, by Eleven of the Clock, either in Perſon, or by Sir *Thomas Pinfold*, to answer to a new Charge brought in againſt her, by her Husband the Duke of *Norfolk*.

Your Petitioner is adviſed, That, for her juſt Defence, it is neceſſary to alledge in her Answer ſeveral ſpecial Matters relating both to the Duke and her ſelf.

That in this ſhort time appointed by Your Lordſhips, your Petitioner finds it impoſſible to inſtruct Counſel, to prepare ſuch an Answer as ſhe is adviſed is neceſſary to put in.

Wherefore Your Petitioner Humbly prays Your Lordſhips, ſhe may have convenient time to put in her Answer to the ſaid Charge.

And Your Petitioner will ever pray, &c.

M. Norfolk

Upon which the following Order was made.

Die Mercurii 20 Januarii, 1691.

UPon reading the Petition of *Mary Dutcheſs of Norfolk*, praying that She may have convenient time for answering to the Charge put in againſt her, by his Grace the Duke of *Norfolk*, Yeſterday. It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That her Grace the Dutcheſs of *Norfolk* ſhall peremptorily answer, by her Self, or Proctor, to the ſaid Charge, to Morrow at Eleven of the Clock in the Forenoon.

Matth. Johnson, Cler' Parliamentor'.

Accordingly, *January* the 21^{ſt}.

The Dutcheſs of *Norfolk* delivered in the following Answer.

I *Mary Dutcheſs of Norfolk*, under Proteſtation, That the pretended Charge of Adultery given againſt me, in the Honourable Houſe of Peers, was, and is, general, inſufficient, and ſuch as, I humbly conceive, I am not bound by Law to give answer unto. Yet knowing my own Innocency, and that I am not guilty of the pretended Crime, this Proteſtation being Sacred to me, I ſhall, and do, under the Matters and Qualifications hereafter mentioned,
answer,

answer, and say, hereby affirming, That having been married to his Grace the Duke of *Norfolk*, for near 15 Years, he never did (till this pretended Charge given against me) in the least pretend, or intimate, unto me, that I had ever injured his Bed; but did always treat me with great Kindness and Respect. And about the Year 1685, at his request, and desire, I did go with him from *London* to *France*, and there continued with him for some time; where his Grace, being under an Indisposition, and continuing so for some time, He shewed such Affection to me, and put so great Trust and Confidence in me, that all such things that were administered to him, in order to his Recovery, He did not, nor would receive any of them but what came from my Hands; and I did with great care attend him: And being recovered, He told me his Occasions required him to go for *England*, but he would return to me in *France* within some short time, and bring Me home to *England*; and at his parting with Me, he shewed great Affection to Me, and in great Passion of Love, with Tears in his Eyes, said, He had Ten Thousand Pardons to ask Me, desiring my Patience, and that I should return into *England* to him in some short time. And after his Grace's return into *England*, he having notice from me, that my Lodgings was inconvenient, and desiring his leave to change the same, He wrote me word very affectionately, that God forbid he should constrain me to any Inconveniency, and left me to my Liberty therein. And before his parting with me, in *France*, as a Testimony of his Love and Affection to me, He ordered 400 *l.* yearly to be paid unto me, out of his own Estate, by Quarterly Payments, over and above the separate Maintenance settled upon me, by my Father, upon my Marriage with him. And that after his Arrival in *England*, he made several Visits to my Mother, the Countess of *Peterborow*; and with great Observance, and Respect, ask'd her Blessing, and told her, he had left me well, and safe, in *France*; and said, that his own Debts were pressing upon him; but if her Daughter (meaning my Self) would consent that the Mannor of *Drayton*, and other places, should be settled upon him, and his Heirs, he should thereby be made a Happy Man. And I coming into *England*, his Grace having put off House-keeping, and dwelling in the Countess of *Peterborow's* Lodgings, in *St. James's*, for about two Years; and I suing him for Alimony (the said 400 *l.* a Year not being paid unto me) He did not, during that Suit, object any Crime against me, which had been proper for him to have done, to avoid Alimony, if I had been guilty. And I, the said *Mary Dutchess of Norfolk*, being at *Drayton* in *Northamptonshire*, his Grace did write very affectionately to me. And that Disturbances happening in those parts, in *November* 1688, I left *Drayton*; and, with the consent of the Duke, went beyond Seas, and there continued till sent for by my Father and Mother, and then returned; which was in or about *October* 1691, with the Duke's consent. And then Applications being made to me by the Duke my Husband, to join with him in the Sale of *Castle-Rising*, and other Estates: But I being advised this must be injurious to me, could not joyn therein, which I humbly apprehend to be the true Cause and Occasion of this proceeding against my Honour, on the Duke my Husband's part.

And I the said *Mary Dutchess of Norfolk*, adhering to my Protestation of my Innocency, and denying that I am guilty of the pretended Crime charged against me, and being unwilling to Impeach my Husband of any Crime whatsoever; yet being advised, That, by the Laws of the Land, a Husband suing a Divorce for the Adultery of his Wife, he ought not to obtain any Sentence of Divorce, if he be proved Guilty of the same.

Where-

Wherefore this Respondent doth aver, and is ready to prove, that the Duke her Husband was, and is Guilty of Adultery, and hath continued in the Course of Adultery for these ten Years last past, and doth so continue.

My Lords,

IT is my Misfortune to be thus accused, I had rather stand charg'd for High-Treason before your Lordships, than with this Ignominious Crime. In the Charge for High-Treason, the manner of Tryals, and the ways of Proceedings, are known; so is the Punishment in this Case against me.

Your Lordships are now creating new ways of Proceeding against me, and a new Law to punish me; and this for a Crime suppos'd, and alledg'd to be committed seven Years past, in another Reign, after publick Indemnities in the Sessions of Parliaments, many Sittings of Parliaments, and Dissolutions of others, without mentioning this Crime against me. My Counsels are to seek how to advise my Defence in the Proceeding, being altogether strange, and without President, or Example.

I find my Prosecution now to be very violent, and my Proceeding to be very swift upon me, having had but one Night to prepare my Answer to this General Charge. I do in this Place publicly declare, I am Innocent of what is objected to me, and am not guilty of defiling my Husband's Bed: I am not guilty of the Crime charg'd against me. I hope (being thus accused) I may, without Vanity and Vain-Glory, say, what is well known, That I am not only the Duke of *Norfolk's* Wife, but also Born and Descended from Parents and Ancestors of the Ancient Nobility; That your Lordships Ancestors, and my Ancestors, who sat in this House, knew no such Proceeding: it is with regret that I bring this Answer for my Self, and against my Husband, but it being my Defence, I hope you will excuse me.

And if your Lordships shall, in your great Wisdom, proceed farther in this matter, I hope, and do most heartily pray, that I may hereafter have convenient time to make my Proofs, and full Defence; and then I doubt not of your Lordships Justice to me, as well as for my Husband, who Sits and Votes with your Lordships.

M. Norfolk.

Upon the delivering the said Answer, the next Day the following Order was made.

Die Veneris 22 Januarii, 1691.

IT is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That his Grace the Duke of *Norfolk* shall produce his Witnesses, to Morrow at Ten of the Clock in the Forenoon, to be sworn. And that her Grace the Dutcheſs of *Norfolk* do attend this House, by her Self, or Proctor, at the same time; and may have Orders for Witnesses if she pleases.

Matth. Johnson, Cler' Parliamentor'.

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Accor:

Accordingly, 23 January 1691, the Duke's Witnesses were produced: and whose Names are as followeth.

Margaret Ellwood
Ann Burton
Rowland Owen
Thomas Hudson
Simon Varelst
Peter Scriber
John Reynolds
Thomas Lloyd

Andrew Anderson
Thomas Foster
Margaret Foster
Jane Wadsworth
Mary Boyle
Rice Jones
Ann Jones
John Hoskins

John Hall
Mary Hall
William Bailly
John Wood
Richard Owen
Henry Dagley
William Miles
John Colvin.

After these several Witnesses were produc'd, on behalf of the Duke of Norfolk, and had given in their several Places of aboad, &c. The following Oath was administred to them.

You shall true Answer make to all such Questions as shall be asked you by this Honourable House, in relation to the Charge of Adultery, brought in by the Duke of Norfolk, against the Dutcheß of Norfolk, with John Germaine; you shall declare your whole Knowledge of this matter, and shall speak the Truth, the whole Truth, and nothing but the Truth, as well upon the matter you shall be examined on behalf of his Grace the Duke of Norfolk, as upon such Interogatories as shall be exhibited on behalf of the Dutcheß of Norfolk, without Favour or Affection to either Party.

So help you God, and by the Contents of this Book.

After the Oath administred, as aforesaid, the following Order was made.

Die Sabbati 23 Januarii, 1691.

IT is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Dutcheß of Norfolk's Proctor shall have a Copy of what was taken upon Swearing the Duke of Norfolk's Witnesses at the Bar; and that the Duke's Witnesses shall give in their Evidence at the Bar, on Tuesday next at Ten of the Clock in the Forenoon: and that the Dutcheß of Norfolk, by her Self, Proctor and Counsel, shall attend, together with the Duke's Proctor and Counsel, at the same time.

Matth. Johnson, Cler' Parliamentor.

After Examination of Witnesses, on behalf of the Duke, the following Order was made.

Die Martis 26 Januarii, 1691.

After hearing this day, the Witnesses on the behalf of his Grace the Duke of Norfolk; It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That Friday next, at Ten of the Clock in the Forenoon, shall be, and is hereby appointed, for her Grace the Dutcheß of Norfolk to make her Defence, by her Proctor, or Counsel; and that his Grace the Duke of Norfolk's

Norfolk's Counsel, and Proctor be then present, and the Witnesses who, this day, delivered their Evidence, or Oaths, on his Grace's behalf: And that the Dutcheſs may have an Order for ſuch Witnesses, as ſhe ſhall think fit to make uſe of, on her Grace's behalf.

Matth. Johnson, Cler' Parliamentor'.

Upon which Order, the Dutcheſs was adviſed to preſent the following Petition.

To the Right Honourable the Lords Spiritual and Temporal in Parliament aſſembled,

The Humble Petition of Mary Dutcheſs of Norfolk,

Sheweth,

THat ſince the Examination of Witnesses before your Lordſhips againſt your Petitioner, upon *Tueſday* laſt, the utmoſt endeavour and diligence hath been uſed, to prepare for her Defence againſt the time appointed by your Lordſhips.

That your Petitioner is very much concerned, that, for the neceſſary Defence of her ſelf, ſhe ſhould be forced to lie under the Charge ſworn againſt her, one moment beyond the time given her by your Lordſhips.

But, upon a Conſultation with her Counſel and Solicitor laſt Night; ſhe is adviſed, that it is abſolutely neceſſary for her to Addreſs to your Lordſhips for time, till *Monday* next, to bring in her Defence, ſome of her moſt material Witnesses being remote from *London*; and though ſhe has ſent for them, and uſed all means poſſible to get them ready, by the time appointed, ſhe cannot be able to have them here before *Monday* next.

Wherefore Your Petitioner humbly prays your Lordſhips, (it being a Caſe of the higheſt concern and utmoſt importance to your Petitioner) to give her time, till *Monday* next, to bring in her Defence.

And Your Petitioner ſhall ever pray, &c.

M. Norfolk:

Upon which Petition the following Order was made.

Die Veneris, 29 Januarii, 1691.

WHereas this day was appointed for her Grace the Dutcheſs of *Norfolk* to make her Defence; upon reading the Petition of her Grace the Dutcheſs of *Norfolk*, praying, (it being a caſe of the higheſt concern, and utmoſt importance to her) to give her time till *Monday* next, to bring in her Defence; after hearing her Counſel at the Bar, and upon Oath made that ſome of the Dutcheſs's Material Witnesses are out of Town. It is Ordered by the
Lords

Lords Spiritual and Temporal in Parliament assembled, That her Grace the Dutchess of *Norfolk* hath hereby time given her for making her Defence, until *Monday* the First Day of *February* next, at Eleven of the Clock in the Forenoon.

Matth. Johnson, Cler' Parliamentor'.

Accordingly the Dutchess of *Norfolk* began her Defence: and the following Order was made.

Die Lunæ, 1 Februarii, 1691.

IT is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That on *Wednesday* next, at Eleven of the Clock in the Forenoon, the House shall proceed in hearing the Dutchess of *Norfolk's* Evidence; and that all the Witnesses that have been sworn on either side do then attend the House.

Matth. Johnson, Cler' Parliamentor'.

Which they did, and the following Order was made.

Die Mercurii, 3 Februarii, 1691.

After having this Day heard several Witnesses on behalf of her Grace the Dutchess of *Norfolk*, as also for his Grace the Duke of *Norfolk*, It is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That her Grace the Dutchess of *Norfolk's* Counsel shall proceed in her Grace's Defence on *Saturday* next at Twelve of the Clock.

Matth. Johnson, Cler' Parliamentor'.

They proceeded accordingly, and the following Order was made.

Die Sabbati, 6 Februarii, 1691.

After having this day heard several Witnesses on the behalf of the Dutchess of *Norfolk*, It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Council for his Grace the Duke of *Norfolk* shall proceed to examine Witnesses on *Tuesday* next at Twelve of the Clock.

Matth. Johnson, Cler' Parliamentor'.

Which accordingly they did, and the following Order was made.

Die Martis, 9 Februarii, 1691.

After hearing some Witnesses this Day, on the behalf of his Grace the Duke of *Norfolk*, It is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That the Counsel for his Grace the Duke of *Norfolk*, as also the Counsel for her Grace the Dutchess of *Norfolk*, shall be heard on

on *Thursday* next at Twelve of the Clock, to sum up the Evidence on either side ; and that Mrs. *Sawbridge*, and Mrs. *Stourton*, do then attend to be heard.

Matth. Johnson. Cler' Parliamentor'.

The Counsel attended accordingly, but not heard ; and their Lordships were pleased to make the following Order.

Die Jovis, 11 Februarii, 1691.

IT is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That the Counsel for his Grace the Duke of *Norfolk*, as also the Counsel for her Grace the Dutchess of *Norfolk*, shall be heard to Morrow at one of the Clock in the Afternoon, to sum up the Evidence on either side ; and that Mrs. *Sawbridge*, and Mrs. *Stourton*, do then attend to be heard.

Matth. Johnson, Cler' Parliamentor'.

After Evidence summed up, this following Order was made.

Die Veneris, 12 Februarii, 1691.

After hearing this Day the Counsel, and a Civilian, for his Grace the Duke of *Norfolk* ; and also Counsel, and a Civil Lawyer, for her Grace the Dutchess of *Norfolk*, who summed up the Evidence for their Graces severally, It is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That on *Tuesday* next, at Twelve of the Clock, this House shall proceed in the debate of this Business ; and that then no other Business whatsoever shall intervene : And that all the Lords in and about the Town shall be summoned then to attend ; and that the Officers that summon them give the House an account of what Lords they summon.

Matth. Johnson, Cler' Parliamentor'.

The Matter was accordingly entered upon ; and after some previous Debates by their Lordships, they were pleased to adjourn till the next Day, when they proceeded, (*viz.*)

Die Mercurii, 17 Februarii, 1691.

THe Deposition taken at several Times before, on the behalf of his Grace the Duke of *Norfolk*, as also those taken on the behalf of her Grace the Dutchess of *Norfolk*, were read at the Table, by the Clerk.

After long Debate thereon, The Question was put.

Whether the Bill Entituled, An Act to Dissolve the Marriage of Henry Duke of Norfolk, Earl Marshal of England, with the Lady Mary Mordant, and to enable the said Duke to Marry again, shall be Read a Second Time ?

It was Resolved in the Negative.

Matth. Johnson, Cler' Parliamentor'.

The *Proceedings* of the *LORDS* upon the *Evidence*.

Rowland Owen *Examined on the behalf of the Duke of Norfolk,*
against the Dutcheſs of Nortolk.

Rowland Owen ſaith, that Mr. *Reyner*, about Six Years ſince, being the Duke of *Norfolk's* Butler, ordered him to carry the things out; the Lodgings being open, he ſaw Mr. *Germaine* in Bed with the Dutcheſs of *Norfolk*, the Dutcheſs leap'd out of the Bed, and put on a Morning Gown, and *Germaine* hid himſelf in Bed; this was between five and ſix a Clock in the Evening, about a Fortnight before *Bartholomew Day*; he did not tell the Duke: he is ſure it was *Germaine*; he ſaw him often, twice or thrice a day; the outward Door of the Lodgings was ſhut, but he opened it with a Key he had.

Rowland Owen examined a ſecond time, ſaith he never had the Key of the Lodgings but once, that Mr. *Reyner* gave him the Key, when he went (as he told him) to the Blew Poſts in the *Hay-Market*, to beſpeak the Dutcheſs's Supper; he ſaith he ſaw not *Frances Knight* then in the Lodgings, nor any other Woman but the Dutcheſs of *Norfolk*; he ſaith he hath ſeen *Reyner* often open the outward Door of the Lodgings, when he hath been by, without calling *Frances Knight*: he ſaith that he himſelf opened the firſt Door with the Key, the ſecond Door was not cloſe ſhut, and the third Door was open: he ſaith two of the Doors are ſtreight forward, and the third turns a little on the right Hand; he ſaith he was gone in at the third Door when the Dutcheſs leapt out of Bed.

Witneſſes produced to the Credit of Rowland Owen.

Edward *Silveſter* ſaith he hath known *Rowland Owen* three or four Years, and he hath truſted him in Buſineſs, and he bath ever been very faith-ful; he hath truſted him in Stores to the King, and he might have imbezell'd, but ever found him honeſt; and he hath had three or four Thouſand Pounds worth of Goods that he might have imbezell'd, and hath had opportunities of doing ill things, but never did: he hath truſted him with every thing he hath; he hath had more than 20 *l.* imbezell'd by others, but he never imbezell'd a half-penny: He knows not well who recommended him to him; he hath an hundred Men now, and he knows not that three of them were recom-mended: He hath truſted him with Goods an hundred and an hundred times

times that he might have imbezell'd; and others that he hath so trusted have cozened him, and he hath lost 20 l. in a Months time by them; He works at our work, and that better than twenty that he hath had, and he's no Porter; he saith he knows not Mr. *Negus*, nor was not acquainted with him till Yesterday.

John Jones saith he hath known *Rowland Owen* above three Years, and that he's a very honest Man, and that he ever found him faithful; that he lodged in his House, and that he might have done him Injuries if he would, and he hath been employed elsewhere, and he never heard ill of him; he believes he's a Man of a better Principle than to take a false Oath.

Thomas Cooke saith that he hath known *Rowland Owen* five years, and knows not but that he's an honest Man, and saith that he maintains his Family by his Labour; he is his Neighbour, and never heard him taxed with any Misdemeanor.

Witnesses Sworn on behalf of the Dutchess, for invalidating the Testimony of Rowland Owen. (viz.)

F*rances Knight* saith she knows *Rowland Owen*, as he was a Fellow-Servant in the Duke of *Norfolk's* House, she hath known him a Year, he was running Porter, to carry up Coals and Wood; he was not trusted with any Keys; she was trusted with the Keys to the Lodgings, and she always kept the Key to the outward Door to the Lodgings, and there was no other Key; and she never delivered it to any Body, but sometimes left it with the Lady *Peterborow's* House-keeper; she never let this *Owen* have that Key or any other Key to the Lodgings, it was below her to do it; he never went into the Inner Rooms, no farther than the Steps to the Outward Room; he's a pitty-ful beggarly Fellow; he laid the Steward's Cloath, and had no other Livelyhood; she lived with my Lady six Years and upwards, and all the while had the Key to the outward Door; she saith you must first come into the Room called the Footmens waiting Room, then into the Dining-Room, then into the Bed-Chamber; the Doors are sideways: she made the Dutchess's Bed constantly; she lock'd the Door, and kept the Key in her Pocket; she had the Key of the Rooms till the Countess of *Westmorland* had the Lodgings, which was till the Duke and Dutchess left them, which was ten or twelve days before *Bartholomewtide*, six Years ago.

Henry Reyner saith that he knew *Rowland Owen* Street-Porter; he saith that he (this Witness) could never get into the Lodgings, but when he had the Key from *Frances Knight*; he saith *Owen* never came into the Lodgings, but had a Key to a House where the empty Bottles were, which was without the Lodgings: and he himself could not get into the Lodgings but by *Frances Knight*; he never had the Key in his own Possession; he never saw *Owen* farther than the Passage-Room; he saith that the Doors are not opposite to one another; he saith *Frances Knight* never gave him the Key; he always found her there to open the Doors, or in the Room; he never had any Key that would open the Lodgings; *Owen* never told him that he caught the Dutchess in the manner as is said; he knows not of any Livelyhood he had, besides laying the Steward's Cloath;

Cloath: *Owen* had Wages from the Duke, and lodg'd at the Duke's House in *St. James's*, he sent Bottles, Pewter-Plates, Forks and Spoons, Bread, and Linnen sometimes by him, from the Duke's House to the Lodgings in *White-hall*: When he was not there to receive them himself, he gave him directions to deliver them to *Frances Knight*, or gave him the Key of the Cupboard. Being ask'd whether he hath ever gone by another Name than *Reyner*, he desired to be excused, and refused to answer; he refused also to answer whether he had known any Lady go by the Name of *Bateman*: afterwards he said he did know one to do so; he saith she went by the Name of the Dutchess of *Norfolk*; he saith it was the Dutchess of *Norfolk* that went by the Name of *Bateman*, and she went so he believes for a Year; it was at *Lambeth*, but he knows not at whose House there; he never saw *Germaine* there; it was a Year or half a Year since, he knows not certainly; the House is called by the Name of *Scriber's House*, a Dyer; he never saw Mr. *Germaine* at *Scriber's* with the Lady *Bateman*; he saith he himself went by the Name of *Goodman* when he lived with this Lady *Bateman*; he saith that he knows not that *Germaine* was ever at *Lambeth*, by that Name or any other; he saith he never paid any Rent for the House at *Lambeth*, nor knows that *Germaine* paid any for it; but he saith he was a Servant to the Dutchess at *Lambeth*, but knows not what Office he was in, but she paid him his Wages.

Henry Reyner, examined to what *Rowland Owen* said at his second Examination, saith he never gave him the Key of the Lodgings, and saith he never had the Key of the Lodgings.

Observations upon the foregoing Evidence.

WE are in the first place to consider, and compare the Evidence on both sides. Secondly, To examine the Credit of the Witnesses. Thirdly, The reasonable Probability of the Matters Sworn, according to the common Course and Practice of the World.

Owen Swears, That being sent by *Henry Reyner*, the Duke's Butler, to carry the things out, and the Lodgings being open, he saw Mr. *Germaine* and the Dutchess in Bed; and to countenance the Story, he says that two of the Doors are streight forward, giving to understand that the Doors being open, and one against another, a body may see the Bed out of the first Room into the third; that *Reyner* gave him the Key of the outward Door, and upon the unlocking of it he made this Discovery.

Frances Knight encounters this Evidence with a Deposition, that she kept the Key of the outward Door her self, and delivered it to nobody, but now and then to my Lady *Peterborow's* House-keeper; That *Owen* never went into any of the Inner Rooms, and that the Doors are sideways.

Henry Reyner saith also, that he himself could not get into the Lodgings, but by *Frances Knight*, that he never gave *Owen* the Key, nor ever had it in his Possession; that he never saw *Owen* beyond the Passage-Room, nay that *Frances Knight* never gave him the Key, but that he still went to her to open the Door, and that he never had any Key to the Lodgings; that whenever
he

he sent *Owen* with Plates, Spoons, and the like, from the Duke's House to the Lodgings in *Whitehall*; he was either there himself to receive them, or directed *Owen* to deliver them to *Frances Knight*.

Now if these two Witnesses speak Truth, *Owen* was never in the inner Rooms at all; he never had the Key of the outward Door, and the Doors are not streight forward as *Owen* Swears they are, which is a Matter of Fact easily cleared.

As to the Credit of *Rowland Owen*: *Edward Silvester*, *John Jones*, and *Edward Cook* are produced in his Favour. The first swears he never knew him steal or cozen, as if the case were Pilfery. The second that *Owen* might have done him wrong, and did not, and thence infers that he would not take a False Oath. The third, that he knows nothing to the contrary of his being an honest Man. So that here are three Surmises for the Reputation of *Owen*, which are just nothing to the purpose, on the one hand: and two point blank Proofs, upon Oath, against him on the other; and not one Sillable all this while to disparage the Testimony of either *Knight* or *Keymer*; though there are several pinching Passages in the Evidence, that, if they were false, might be detected by Hundreds of Witnesses. And for an Instance of *Keymer's* Tenderness of an Oath, he has own'd some things, upon the close of his Examination, to the seeming Prejudice of the Dutchess her self. This is meant of their going by borrowed Names; but as things stood at that time with many Persons of Honour, under her Grace's Circumstances, it was no Scandal to conceal either their Names or their Abodes. But as to the true Reason of the Dutchess's Retirement and living in a manner so *Incognito*. The Earl of *Peterborow* falling desperately sick in the *Tower*, her Grace came over upon it, from beyond the Seas, to be within distance in case the Sicknefs should have proved Mortal. The Dutchess had at that time nothing to live upon but an Exhibition from her Father, and one half of that was made over too for the Payment of her Debts; so that not being in condition to appear answerable to her Quality, she thought her self bound in Honour, Prudence and Justice to retrench her Expences, which she could not better do than by such a Retreat.

It is in the next place to be observed, how *Owen* interferes with himself; the Lodgings, he says, being open, he saw Mr. *Germaine* in Bed with the Dutchess of *Norfolk*, the Dutchess leap'd out of the Bed, &c. This must naturally be understood to have been upon the opening of the first Door; and to the end it should be taken so, he says that the two first Doors were streight forward, and that the third turns a little. Now if so, how could he see the Bed out of the first Room into the third? And then he forgets himself again, in saying that the second Door was not close shut, and the third open; so that he has now doubled the Difficulty: there was no seeing into the Bed-Chamber, both because the second Door was almost close, and because the third was sideways. It is to be noted also, that the Bed stands quite out of sight of the Bed-Chamber Door, which is sufficient of it self alone to overthrow *Owen's* Testimony. But upon second Thoughts, he takes himself tripping, and instead of mending the Matter makes it worse; it comes into his Head by this time, that there was no seeing them in Bed out of the first Room, and so thinks to help it out with a Flam at the wrong end of his Information, that indeed he was in at the third Door when the Dutchess leap'd out of her Bed. Now to take the Tale his own way, can any body imagine that *Owen* should unlock the outward Door, lay down his Lumber, pass these

two Rooms into the third, the Dutcheſs and Mr. *Germaine* both awake too, and all this Noiſe not give them the Allarm.

To come now to the Probability of the thing, *Keymer* gave him the Key, he ſays, only for once it ſeems, for he never had it either before or ſince. Has not this the Face now of a Contrivance calculated for a particular turn? Is it not highly improbable again, that a pittyful drudging Fellow that earn'd his Bread, by doing Porters work for the Family, ſhould have the Dutcheſs's Bed-Chamber laid open to him? And ſo for the Morning-Gown, and *Germaine's* hiding himſelf in the Bed, had they no other Cloaths or Garments lying by them? that *Owen* ſhould have the luck to ſee juſt this and nothing elſe. But his Leſſon was to ſwear *Nudus cum Nudâ*, and *Solus cum Solâ*, to bring the Proof up to the ſtraitneſs of the Law, and that was the part he had to play. Or, to take the Caſe yet another way. If *Owen* had ſeen them out of the firſt Room, can any Body think he would have ventur'd after that into the Bed-Chamber? or, if he did not ſee them in the firſt Room, what had he to do in the other Room at all? But over and above all the reſt, for an Amour of this Quality, to be carryed on thus in the Face of the Sun, the Doors and the Curtains open; let any Man ask his own Conſcience if he does not look upon it as an Impoſture, without a Preſident from the Creation to this Day.

Margaret Ellwood examined on the behalf of the Duke of Norfolk, againſt the Dutcheſs.

M *Argaret Ellwood* ſaith ſhe had a Company to ſee the Lodgings at *Windsor*, in the Firſt Year of King *James's* Reign, about three or four of the Clock in the Afternoon; a Woman told her that my Lady was not there, but ſhe opening the Door ſaw my Lady upon the Stools in an ill poſture, Mr. *Germaine's* Britches were down; he pull'd them up, and laid his Hand on his Sword, ſaying, *God Dam' you for a Whore, how have you the impudence to come here?* My Lady bid him kick me down; he ſcattered ſome Concerns, that is Man's Nature on the Boards; ſhe ſaw no Nakedneſs but her Knee, or a little above. Another time after, ſhe found *Germaine's* Handkerchief and Ruffles in my Lady's Bed; my Lady's Woman ſaid there was *Germaine's* Name upon them. Another time, ſhe ſaw Mr. *Cornwal* let Mr. *Germaine* out of my Lady's Cloſet: She ſaw *Germaine's* Legs within hers when ſhe came the firſt time into the Room, and his Breeches were about his Heels. The firſt time was in *Bartholomew-Fair* time; Mrs. *Knifeton* told her it was *Germaine's* Linnen.

Witnesses produced to the Credit of Margaret Ellwood.

Captain *Charles Potts* ſaith, he hath known *Margaret Ellwood* ſix or ſeven Years, and that ſhe was Servant to the Duke of *Norfolk*, and that ſhe behaved her ſelf well and prudently there; her Husband was a Soldier in his Company, and was as he hath heard a Shoemaker.

John Faucet ſaith, he knew *Margaret Ellwood*, while ſhe was the Duke of *Norfolk's* Servant about two or three Years; he never heard any Scandal or Diſgrace of the Woman, but that ſhe carried her ſelf civilly; he knows not whether ſhe kept an Ale-Houſe in *Windsor*.

Lawrence

Lawrence Purcell saith, he knows *Margaret Ellwood*; she lived in his House in *Brook-Market*, next *Easter* will be two Years: He knows nothing amiss of her; she took care for her Living; he never knew her keep ill Hours; she took a Room in his House, some of the Rent is behind, he thinks thirty two Shillings, her Husband and the Woman gave him a Bond for it.

Witnesses sworn on the behalf of the Dutchess, for invalidating the Testimony of Margaret Ellwood.

M*ichael Haddon* saith, he hath been acquainted with *Margaret Ellwood*, four, five, six, or seven Years. When he first knew her, her Husband was a Soldier in the Duke's Company, and she was, as he hath heard, an under House-keeper; he believes she was turned out of the Duke's Service; afterwards she sold Drink, in a House of his at *Windsor*, and went away in his Debt by Night, without paying him; she took her Goods with her; this was in 1689.

Joyce Heath saith, she knows *Margaret Ellwood*; she lived in a Cellar of hers, and in a back House of hers, but not at the same time, three quarters of a Year, in *Brook-Market*, about *Michaelmas* last; she paid the Landlady but eleven Shillings six Pence: Her Course of Life was not good; she was in an inferiour Condition, her Husband was a Cobler in a Stall, and she had five Children.

Mary Tervis saith, she hath but a slender Acquaintance with *Margaret Ellwood*; but the said *Ellwood* sent to borrow a Scarf of her the Sunday after *Christmas* last; and saith, that going the next day for her Scarf, she the said *Ellwood* desired it for a longer time, for it might be 5 *l.* in her way, for she was to be a Witness for the Duke of *Norfolk*, who was to be Divorced from his Dutchess, and that the Duke sent his Charriot for her: I told her there could be no separation in Marriage, except Adultery could be proved; and that I could not think it reasonable to believe that so mean a Servant as she could be a Spectator to so ill an Action as that was; she said she thought she could do the Duke no Kindness in going, for she never saw other harm by the Dutchess, than that she saw Gentlemen come to and fro to the House: but the Duke had sent for her, and she must go.

Mary Jones saith, she knows *Margaret Ellwood*, who she heard say, the Lady Dutchess sent for her a little before *Christmas* last, and said, *Margaret*, I desire you to speak the Truth, I would not have you disoblige my Lord in the least. *Margaret Ellwood* said, she never knew no harm by her Grace. The Dutchess demanded the Keys of her, and she gave them her; and the Dutchess gave them to her the said *Ellwood*, again the next Morning; the Discourse was a few Days before *Christmas* last.

Ann Ross saith, she knows *Margaret Ellwood*, who came to her House and told her, about two Months since, that the Duke of *Norfolk* sent for her to Witness, for there would be a Divorce between the Duke and Dutchess: and I asking her what she could say, she answered she could say little, but that she knew no ill by the Dutchess; but that she was a good generous Spirited Lady, and she never knew any ill Action by her in her Life; I bid her have a care what she went about, for that would do the Duke but little Kindness. The Dutchess, she said, called for the Keys of her Lodgings, but gave her them back next Morning; she saith, that last Week she went to her to demand a Debt, and

and she promised to come and pay it her; she saith, she went to the Porter, at the Duke's, to ask for her; but the Porter said she was not within: but meeting with her Child there, she said she was within, and brought her, the Witness, to her in the Duke's House; and she made her very welcome, and sent her Husband with her, the Witness, to see her Childrens Lodging in the *Green-Mews*, near the Duke's House; she saith, *Ellwood's* Husband told her, upon asking how the Cause went, that his Wife was to have 30 *l. per Annum* settled on her, and to go to *Windsor* to live, and to have the shewing the Castle; she saith, that upon her going to see the Children, and commending their Lodgings, that *Ellwood's* Maid, or Woman, told her they paid 4 *s.* a Week for the Lodging; She saith the Children were well cloathed, with good Frocks and Top-knots, and they used to be ragged, and that her Husband used to allow her but six Pence a Day for her and her Children; she saith that *Margaret Ellwood* told her she had been with the Dutchess; and that her Grace bid her do nothing to disoblige her Lord, but speak the Truth.

Mary Rofs saith, she knows *Margaret Ellwood*, she saith, she heard *Ellwood's* Husband say, that the Duke of *Norfolk* had taken care of his Wife and Children, and settled thirty Pound *per Annum* on them, and her Habitation was to be at *Windsor-Castle*, and said that my Lord Duke would be Divorced, for he was to have a great Fortune of twenty thousand Pounds a Year: This Discoule was the last Week, and her Father was present, and her Mother was just gone out.

Observations upon the foregoing Evidence.

Here's a foul and a suspicious Story in this Deposition of *Margaret Ellwood*, wherein she stands singly upon the Credit of her own Testimony, without any colour or corroborating Evidence to support it: Only Capt. *Charles Potts*, *John Faucet*, and *Lawrence Parnell*, are produced to speak to her personal Reputation. The first says, she behaved her self well and prudently in the Duke's House; the second and third, that they knew no Ill by her.

There were produced on the behalf of the Dutchess, and to invalidate the Testimony of *Margaret Ellwood*, these six Witnesses, *Michael Haddon*, *Joyce Heath*, *Mary Trevis*, *Mary Jones*, *Ann Rofs* and *Mary Rofs*. *Mary Trevis*, *Mary Jones*, and *Ann Rofs*, do all depose, that about *Christmas* last, speaking of the Dutchess, and Mr. *Germaine*; *Margaret Ellwood* told each of these Witnesses respectively, that she never saw or knew any thing of Ill by the said Dutchess; and yet *Ellwood's* Accusation bears date in the first Year of King *James*. *Mary Trevis* swears farther, that upon the next Sunday after *Christmas* last, *Ellwood* told her, upon borrowing a Scarf of her, that it might be 5 *l.* in her way, for the Duke was to be Divorced from the Dutchess, and he had sent his Chariot for her, and she was to be a Witness. *Ann Rofs* speaks also to the same effect, how *Ellwood* told her there would be a Divorce, and the Duke had sent for her to be a Witness; and likewise saith, that *Ellwood's* Husband told her, that his Wife was to have 30 *l. per Annum* settled upon her, and live at *Windsor*, and have the shewing of the Castle. *Mary Rofs* speaks to the same purpose also, with the Witness above, as to what *Ellwood's* Husband said of *Windsor*, the Settlement, and the Divorce; adding also, that the Duke was to have a great Fortune (according to the common rumour then about the Town); *Mary Rofs's* Father was by, and heard all this: It was about a Week before the date Information that Discourse had passed.

Nay

Nay, the Dutcheſs was ſo clear in the matter, that ſhe ſent for *Ellwood* a little before *Chriſtmas* laſt, and bid her ſpeak the Truth; as *Ellwood* herſelf own'd to *Mary Jones* and *Ann Roſs*.

To come now to the Quality and Credit of *Margaret Ellwood*. *Haddon* ſays ſhe was his Tenant to an Ale-houſe in *Windſor* in 1689, carry'd off her Goods by Night, and went away in his Debt.

Heath ſaith ſhe liv'd in a Cellar, led an ill courſe of Life; her Husband was a Cobler in a Stall.

Ann Roſs ſays that ſhe had five Children, and that ſhe had but Six Pence a Day Maintenance for her ſelf and them.

This was her Condition till near *Chriſtmas* laſt, when all on a ſudden, as *Ann Roſs* depoſes, ſhe was taken into the Duke's Houſe, the Children new Cloath'd, and trickt up with good Frocks and Top-Knots (which were till then all in Rags) Lodgings provided for them at Four Shillings a Week, and a Maid to look to them, and no viſible means of doing all this. But, in fine, the Change was not wrought by Miracle, and leans much toward the Diſcourſe before mention'd, that *Ann* and *Mary Roſs* had with *Ellwood's* Husband.

The Queſtion, at laſt, is briefly this; Whether is to be believ'd, a Woman under ſo many ſcandalous Circumſtances, and one that Swears for herſelf too; or Six Witneſſes againſt her of ſo unqueſtionable Probity, that not ſo much as one of them could be impeach'd by the other Party?

To paſs now to the palpable unlikelyhood of the Story barely in it ſelf; *Ellwood* was carrying Company, ſhe ſays, to ſee the Lodgings at *Windſor*, and opening the Door, ſhe ſaw and heard, as in her Depoſition. How came it now, that none of this Company ſhould be produc'd, or ſo much as nam'd to ſecond *Ellwood*, for 'tis to be preſum'd, they muſt needs hear and ſee what paſſ'd upon this Adventure, as much as ſhe herſelf did; or if ſhe had but nam'd the Woman, who, ſhe ſays, told her my Lady was not there, it might have ſerv'd as a Collateral Inducement, for the giving of ſome ſort of Credit to it. But in a Matter of this Importance, to have ſo many Witneſſes within reach of being found out, and none to appear, looks very ill on their part, that were ſo much concern'd to produce them: And ſo for *Germaine's* threatening her, and the Dutcheſſes bidding him kick her down; no People in their right Wits, but would have try'd to ſtop her Mouth, with fair Words and a good Bribe in ſuch a Caſe as this, rather than provoke her by Menaces and ill Language, to run open Mouth to the Duke with the Story, in Revenge, when ſhe had the Dutcheſſes Honour and Eſtate ſo abſolutely at her Mercy.

As to the buſineſs of Mr. *Germaine's* Handkerchief and Ruffles, and his being let out of the Cloſet, the Contrivance is all of the ſame piece with the reſt; for why were not the perſons nam'd in her Depoſition, produc'd to prove the Particulars therein mention'd, as well as *Ellwood's*? It is moſt certain, that the Proſecutors could eaſily have done it, and that it was properly their Buſineſs and Intereſt ſo to do; for what ſignifies *Ellwood's* ſingle Teſtimony, under her Circumſtances, without Corroborating Proofs? She tells us a tale of Company to ſee the Lodgings, a Woman that told her ſo and ſo, and another Woman and a Gentleman that ſaid, and did this and that, and yet not one Creature at laſt to ſecond her Depoſition, nor any pretence of an Exception to the Evidence on the other ſide.

*Tho. Hudson Examined on the behalf of the Duke of Norfolk
against the Dutcheſs.*

Thomas Hudson ſaith, That the Duke of *Norfolk* being at *Portsmouth*, he was Butler at *Windſor*, when *Germaine*, and the Dutcheſs, and *Cornwall* went to play; *Germaine* ſent his Footman for clean Linen, which he brought the next Morning; Mrs. *Gwin* ſaid to the Dutcheſs, The Dog would have lain with me, but ſhe would not lay the Dog where the Deer laid, for ſhe knew my Lady Dutcheſs would accept of him; after that he ſaw a Shirt and a Waſcoat in the Cloſet, which my Ladies Woman and *Ann Burton* took away. My Lord being abſent, we murmured amongſt our ſelves, that my Lord was wrong'd; I told my Lord, whereupon my Maſter *Cragg* had me to my Lord *Peterborough's* Lodging, and threaten'd me, that he would prefer me to his Brother *Richards*, who turn'd me off in *Germany*. This was, he thinks, in *December* or *September* 1685: Mrs. *Gwin* ſpoke this in the *Green Room*, and he was in a Cloſet hard by, and the Door open, and ſo heard it.

*Witnesses ſworn on the behalf of the Dutcheſs, for Invalidating the
Teſtimony of Thomas Hudson.*

William Purchase ſaith, That he knows *Thomas Hudson*, who, he ſays, was never Butler to the Duke of *Norfolk*, either at *Windſor*, or any other place; He, the Witneſs, was Under-Butler himſelf, *Keymer* was Butler in 1685, and the Witneſs was Under-Butler. He ſaith, *Hudson* waited on the Gentleman of the Horſe, and the Steward; he was not the Duke's Servant, nor waited at the Table that he knows of; he was never ſuffer'd to come into the Room when the Duke or Dutcheſs was at Play. He ſaith, he, the Witneſs, was not at *Windſor* at the time when the Duke of *Norfolk* was at *Portsmouth*, but he was ſent to *Drayton* in *Northamptonſhire*, and was then the Dukes Servant as Under-Butler; he knows not that *Keymer* was, he ſaith he is now Servant to the Lord *Peterborough*.

Col. *Jacob Richards* ſaith, That he knows *Tho. Hudson*, he was his Servant, he was recommended to him by Mr. *Cragg*, he was his Footman; he believes he was in his Service four Months, he parted with him becauſe he found him a tricking Fellow; he told him his Brother *Cragg* was to be kill'd by one *Curry* and another *Irishman*: He, the Witneſs writ to his Brother *Cragg*, and he advis'd the Witneſs to part with him, for he did not think him fit to be truſted in his Travels; whereupon he paid him his Wages, and gave him Money to bear his Charges to *England*, and ſent a Trunk by him. One Mr. *Negus* travell'd with the Witneſs and his Father, who then and now lives with the Duke of *Norfolk*, writ to us, that he did not think it fit for us to keep ſuch a Servant, for he was a dangerous Fellow, or to that effect. *Hudson* never own'd any thing of the Adultery to the Witneſs, but poſitively declar'd to him he knew nothing of it: This was in *January* 1685. He ſaith, that *Cragg* writ him word, that *Hudson* muſt needs be a Tricking Knave. He negligently told the Witneſs this of the Adultery; Curioſity made him ask it of him, for he had liv'd with the Duke and Dutcheſs, and it was natural for

for him, the Witness, to ask such a Question. He saith, he believes *Hudson* saw some of his Letters : He saith, there were printed Papers in the Trunk he sent, but nothing of any considerable value. He saith, *Hudson* never cheated him of any thing that he knows of ; he hath trusted him with a 100*l.* at a time : The Trunk was deliver'd in *England*, and he believes, he knew what was in it : He saith, that asking *Hudson* whether he knew any thing of the Adultery charg'd on the Dutcheſs of *Norfolk* ? *Hudson* said, he knew nothing of it : He, the Witness, told him, that it was said, that it was he that had betray'd the Dutcheſs ; he said it was a false Accuſation, for he knew nothing of it.

Observations upon the foregoing Evidence.

H*udson* swears himself the Duke's Butler at *Windſor*. *William Purchase*, swears that *Hudson* was never the Duke's Butler.

Hudson ſays, that they went to Play, and that he overheard Mrs. *Gwin* out of a Cloſet, ſaying as in the Evidence. Mrs. *Gwin* is a dead Witneſs, and *Hudson* but a Cloſet Witneſs, which is little better ; now *Purchase* ſays again, that *Hudson* was never ſuffered to come into the Room where the Duke or Dutcheſs were at Play.

Hudson ſays likewise, that the Servants murmur'd amongſt themſelves, that my Lord was wrong'd, and that he told my Lord of it. Colonel *Jacob Richards* Depoſes that he himſelf telling *Hudson* of a Talk, that he had betray'd the Dutcheſs, and ſpeaking of a Noiſe of the Adultery ; *Hudson* made Answer, that it was a false Accuſation, and he knew nothing of it.

Now as to *Hudson's* Credit, he was Colonel *Richards's* Footman, who turn'd him off as a Tricking Fellow, and not fit to be truſted. Mr. *Negus* the Duke's Servant, both then and now, was of the ſame Opinion too, and adviſed by Letter the putting of him away, as a dangerous Fellow.

This Story of Mr. *Germain's* ſending his man for clean Linnen over Night, and the bringing it next Morning, has little in it, even ſuppoſing the Fact to be true ; Firſt the Order was given bare-fac'd, and Conſequently no Myſtery in it. Secondly, there was a Set Company at Play, and that was not an opportunity for a Love-Intreague. Thirdly, it is no new thing for People to Sit up all Night at Play, and change their Linnen next Morning, without any offence to Honesty, or good Manners, where they may have a Privacy ſo to do it. And if my Lady's Woman and *Ann Burton* took away the Shirt and Waſtcoat, as he ſays they did, there's no great hurt in that neither ; tho' it's much to have three ſuch Confidants to ſuch a Secret, an under Foot-man Privy to the Intreague of *Germain's* Man going and coming, and raking in the Women's Cloſet among the Linnen.

But ſtill the only Proper Witneſſes are kept behind the Curtain. *Ann Burton* indeed is produced, and we ſhall ſee what kind of Evidence ſhe proves her ſelf in the next Place.

Ann Burton examined on the behalf of the Duke of Norfolk against the Dutchess.

A *NN Burton* saith, she was Servant to the Duke and Dutchess of *Norfolk*. When the Duke was gone to *Portsmouth*, she was at *Windsor*, when my Lady went to *London* with *Germain*. When my Lady came home, after Supper she was in great hast to go to Bed, when she was undrest, she said she would Lock us out, because she would not be disturb'd before Eleven a Clock the next Morning, tho' the King and Queen should come. *Hudson* told her *Germain* was still in the House, whereupon we laid Chairs on the back Stairs, that we might hear him if he came down, the Chairs were not removed the next Morning; when *Germain's* Man came with Linnen, he said his Master was there. My Lady ordered a Fire to be made in my Lord's Room, where when she was come, Mrs. *Nelly Gwyn* came in and asked her how she liked her Nights Rest? And being asked for *Germain*, she said she knew nothing of him. My Lady complaining of her Hair being out of order, *Nelly* answered it was a hot Night with her, enough to put her Hair out of Powder and Curl too. Quickly after *Cornwall* came in and asked for *Germain*, and my Lady saying she knew nothing of him, *Nelly Gwyn* said, I question not but he will come out by and by like a drowned Rat; with that while I was cleaning the Dining Room, Mrs. *Knifton* called me, and shewed me in a Closet *Germain's* Shirt and Waistcoat, and afterwards makeing my Lady's Bed, saw there were Two Prints where Two had laid. The Shirt and Waistcoat were sent by the Duke to the Lord *Petterborow's*, she saith she is a single Woman and was never Married, this was about *Bartholomewtide* Six Years since, she supposeth the Bed was Stained both by a Man and Woman.

Witnesses sworn on the behalf of the Dutchess for the invalidating the Testimony of Ann Burton.

A *NN Burton*, against her self; upon seeing several Witnesses come in, to prove her to be a Married Woman, (tho' she had sworn the contrary) was call'd to the Bar of the Lords, and there saith, she was not Married when she was at *Windsor*, since that she hath been Married. *Ann Burton* was her Maiden Name, her *Husband's* Name is *Benskin*.

Susan Wheat-Croft saith, that she knows *Ann Burton*, and that she Lodged in her House Sixteen Weeks, with her Husband *Robert Benskin*, and she said she should have a parcel of Money to be a Witness for the Duke of *Norfolk* against his Dutchess, this was about *March* Two Years since, her Husband said he should have a Commission from the Duke of *Norfolk*, and he should have a great deal more from him, for his Wife is to be a material Witness against his Dutchess. They did not pay her the Witness, when they went away, nor since, they owed her Seven Pounds Fifteen Shillings; she hath been seeking after them, and could not find them; she left a Trunk with Rags in it, and went away Privately, carrying away her Goods by Parcels.

Mary

Mary Sheriff saith, that she lives next Door to *Warwick-House* in *Holbourn*, and hath kept House there near seven Years, and hath known *Ann Burton* two Years; she lived with my Lord *Clare*, while she was there, a Soldier courted her, they used to come every day for a Fortnight or three Weeks to her House to drink, she ow'd her about 3 *l*. she hath told her several times since, that she was to be a Witness for the Duke of *Norfolk* against his Dutcheſs, and she was to have Money for speaking; she heard Mrs. *Tod* bid her always keep in a Story, and she would do well; she, the Witness, heard them talk of 30 or 40 *l*. Mrs. *Burton* should get by being a Witness; she is not paid the 3 *l*. nor knows not whether she shall be paid; but last Winter she found her in *Henrietta-street*, and she desired her, the Witness, not to take notice of her Name, nor what she said to her, for she, the Witness, should have her Money in a short time, when the Tryal was over; she told her the same a little before that, when she lived at Major *Wildman's*; she takes it, to be in this Winter was Twelve-Month; she thinks it was the Duke of *Norfolk's* Tryal; she, the Witness, keeps a Coffee-House, call'd *Joe's Coffee-House*.

William Purchase saith, that he knows *Ann Burton*, she declared to him about a Year and a half after the Dutcheſs was charged with lying with Mr. *Germaine*, that she knew nothing of it, and that the Dutcheſs was wrong'd as much as ever any Woman was, and that she hoped to see those punished that were the Cause of the Accusation: He saith, he went to see her as a Fellow-Servant, and he was not sent by any one, and going to drink together they fell into this Discourse: He hath talk'd of this Matter several Times (particularly to Mr. *Welborne*) since this Business was spoken of, having heard she was to be a Witness against the Dutcheſs.

Observations upon the foregoing Evidence.

A *NN Burton* has the Story over again of the Shirt and Waistcoat, and of Mrs. *Gwyn's* Discourse, to which enough is said already, and more needs not be said upon the Evidence of a Person so manifestly forsworn. In her first Oath, she swears her self a single Woman, and that she was never Married; but upon Witnesses appearing to prove the contrary, she was called to the Bar again, and own'd her self to be Married, and that her Husband's Name was *Benskin*.

This *Ann Burton* had been a Lodger sixteen Weeks to *Susan Wheatcroft*, as appears by *Wheatcroft's* Deposition; she conveyed her Goods privately out of the House by Parcels, and slipt away seven Pound fifteen Shillings in her Debt; she told *Wheatcroft* that she was to be a Witness against the Dutcheſs, and that she should have Money; her Husband saying also, that his Wife was to be a material Witness against the Dutcheſs, and he himself should have a Commission, and more than that too.

Mary Sheriff says, that pressing *Ann Burton* for three Pound that she ow'd her; her Answer was, that she was to be a Witness for the Duke against the Dutcheſs, and that in a short time she should have Money, and then she would pay her.

William Purchase swears, that about a Year and half after the Report concerning the Dutcheſs and Mr. *Germaine*, *Ann Burton* told him, the Dutcheſs was wrong'd, and she hop'd to see her Accusers punished: and that he himself hath often spoke of this Passage to several, and particularly to Mr. *Welborne*. Take

notice, that these Depositions for the Dutchess, as well as the former, have passed without any contradiction: That *Germaine's* Man is neither produced nor named; the Linnen (if any) brought as openly as it was sent for. No Mrs. *Knifton* appears, and the whole Deposition rests upon the Credit of a forsworn Woman.

Simon Varelst examined on the behalf of the Duke of Norfolk, against the Dutchess.

Simon Varelst saith, that he was at *Windsor*, to draw the Dutchess of *Norfolk's* Picture, about six Years since, and had the Duke's Closet to put the Pictures in; when he had done and had been at home two or three Days, when *Germaine* came to him much concern'd, and said, you can do the Dutchess an extraordinary Kindness, and will oblige the Lord and Lady *Peterborow* in the highest degree; then he shewed me a Letter of the Dutchess to me, and read it to me, before that he told me there was a Shirt and Waistcoat, and they are known to be his; he said, I desire you to save the Dutchess's Honour, I desire that you will be so much a Gentleman as to own them to be yours, and that you left them there; I answered, I was much concern'd there should be such a Trouble, but I desired to be excused, I could not do it without Prejudice: He told me the Lord and Lady *Peterborow* had discoursed the Duke of *Norfolk* upon it, and if it were but my Linnen, their Discourse had wrought so much upon him, that if there came any Evidence to assist him, he would leave of the Pursuit; I refused still, he offered me a Purse of Gold, and told me I should make my Fortune by it; but I still refusing, Mr. *Germaine* went away very much discontented; my Wife being in the next Room, overheard the Discourse between *Germaine* and me, and told it, and spoke of it, or else I had not been here now.

John Rothmell Sworn a Witness on the behalf of the Dutchess of Norfolk, for Invalidating the Testimony of Simon Varelst.

John Rothmell saith, that he lives in *Crown-Court* in *Covent-Garden*, and is a Taylor: He saith, he knows *Simon Varelst*, and that he, the Witness, Marry'd his half Sister; he saith, that about a quarter of a Year after the business of the Dutchess happen'd at *Windsor*, he was at *Varelst's* House about Eleven of the Clock in the Night, and *Varelst* lock'd the Door, and told him, he had disparag'd him by Marrying his Sister, and said, he would be his Death, and drew his Sword, and Commanded him to strip, that he might slash him at his pleasure; and the said Witness did strip for fear of his Life, knowing his Frenzy; and he struck the Witness above a dozen times with his Sword, and threatned still to have his Life, if he, the Witness did not fetch his Wife down that Night, which was about Twelve a Clock, and which was about Six Weeks after she lay in; and he was to bring her to be Whipt, and to bring Six Rods with him; upon his, the Witnesse's Promise to do this, he let him go, and he hath not seen him since, but in the Street. He had half a Year before that been Distracted for Six Weeks, and he, the Witness, fetch'd Dr. *Tenison* to him once, and the Doctor came several times afterwards to him. One Night in that Sickness, he got from the Woman that watch'd him, and run about two hours in his Shirt and Waistcoat, in a Frosty Night, and cut his Feet, and was brought home by the Watch; he saith,

saith, his, the Witness's Wife, was to have been here this day, as a Witness, and was here, but having not an hour to reckon, and being ill, is gone home with her Midwife. He saith, he never durst go near *Varell's* since he abus'd him. He saith, that Mrs. *Varell's*, after she came from *Windsor*, said, that the Dutcheß had ill People about her, and that she believ'd her to be much wrong'd, and said, she could clear her about the Scandal of the Linnen that was found; for whether it was or was not Mr. *Varell's* Linnen, she could do it; and said, supposing I had brought my Husband's Linnen down to be wash'd, and the Landress fetching of it, she might take it up and leave some of it behind.

Observations upon the foregoing Evidences.

THere needs no more to the overthrowing of *Varell's* Evidence; whatever it is, than the Testimony of *John Rothmell*, to prove him *Non Compos*; witness his Outrage upon *Rothmell*, the fantastical freak of sending at Midnight for six Rods to whip his Sister-in-law; and another fit, for a matter of six Weeks, when Dr. *Tenison* made him several Visits to compose him, his Frenzy being so violent upon him, that he broke loose from his Keepers in a Frosty Night, and ran up and down the Streets in his Shirt, till he was taken up by the Watch. This is the sum of *Rothmell's* Testimony, and not one word oppos'd either to the Credit of the Witness, or the truth of the Depositions. But it may not be amiss, after all this, yet to speak a few words to the likelyhood of what *Varell* has here depos'd.

Mr. *Germaine* came to him, he says, with a Letter from the Dutcheß, which he read to him, and in the name of the Lord and Lady *Peterborough*, desir'd him to say, the Shirt and Wascot were his; but not one word all this while of the Contents of the Dutcheß's Letter. He says again, that the Shirt and Wascot were known to be his; now if they were known to be Mr. *Germaine's*, what good could *Varell* do by taking the matter upon himself; when he saw fair words would not do, there was a Purse of Gold offer'd him, and that would not work neither. The Dutcheß and Mr. *Germaine* were wonderfully alter'd, sure, in this Case, from what they were in the business of *Owen* and *Ellwood*; there was no Purse of Gold or Dutcheßes Letter to smother the matter, but on the contrary, *Ellwood* was threaten'd, provok'd, and defy'd, instead of cajoling her. And what was all this for at last, but only to remove a Jealousie, and most ridiculously, at the same time, to condemn themselves by a Confession out of their own Mouths, and improve the Suspicion into a Certainty: Can any Body imagine that they would not have done more to have suppress'd *Owen's* and *Ellwood's* Evidence, than *Ann Burton's*, or *Simon Varell's*, who swears farther, that his Wife heard all this Discourse betwixt *Germaine* and himself in the next Room, and told of it. Why was she not produced then, or the Persons to whom she told it? But *Rothmell* swears, that Mrs. *Varell* said, the Dutcheß had ill People about her, and was much wrong'd, and that she her self could clear her about the scandal of the Linnen; so that 'tis plain, Mrs. *Varell* was not an Evidence for the present Turn.

*Thomas Foster Examined on the behalf of the Duke of Norfolk,
against the Dutchess.*

T *Thomas Foster* saith, that he was Coach-man to *Mr. Germaine*, and carried the Dutchess of *Norfolk* often, about two Years since in his Coach, and brought her Home, and the Foot-men have had four half Crowns given them; and *Marting* a Dutch-man, his helper, called it *Bush-Money*; it was by Night, against a Light, that he saw her Face in the Coach; it was about Seven or Eight of the Clock at Night about this time a Year; he hath seen her Face once in the day time, she looking out of a Sash-Window, two stories high, in *Mr. Germaine's* House in *Park-Street*; he knows her Face well enough; he hath seen her before, and since she was Married.

*Witnesses Sworn on the behalf of the Dutchess of Norfolk, for In-
validating the Testimony of Thomas Foster.*

J *ohn Hall* saith, that he Lives at the *Coffin* in *Tuttle-street*, and is a Joiner; he saith, he hath known *Thomas Foster* two Years; and that about three Weeks since, they being Drinking together, and talking, concerning the Duke and Dutchess of *Norfolk*; he said, *Mr. Germaine* had done ill things by him, in turning him off in *Ireland*, and in turning him off here, and he was resolv'd to be reveng'd of him.

Hosea Grimley saith, he Lives with *Mr. Germaine*, and that he hath known *Thomas Foster* above a Year and three Months, in *Mr. Germaine's* Service; he heard him say, in the last Week of *December* last, in *Mr. Cook's* House, about three days before he was turn'd away; that he thought it no more Sin to Murther his Master, than it was to kill a Louse; he saith, he hath lived with *Mr. Germaine* about a Year and half; and that he never saw the Dutchess of *Norfolk* with him; and that he hath ever since he came to him, lived with him in the place where he now lives; he saith, he never saw *Mr. Germaine* with a Woman, that was called the *Lady Bateman*, nor knows any such Name or Person.

Observations upon the foregoing Evidence.

T Here is not one word in *Foster's* Evidence, true or false, that's worth the hearing, only it is levelled upon the main, at the Dutchess and *Mr. Germaine*; and *John Hall* gives the Reason of it; for this same *Foster*, he says, was *Mr. Germaine's* Coach-man, who he said, would turn him off, and he would be reveng'd of him. *Hosea Grimley* Testifies also, that some three days before *Foster* was turn'd away, he said, he thought it no more Sin to Kill his Master, than to Kill a Louse. So, that the Evidence he gives, was grounded on the Malice he bore his Master, for turning him off.

*Thomas Lloyd Examined on the behalf of the Duke of Norfolk,
against the Dutchess.*

T *Thomas Lloyd* saith, he knows one that went by the Name of the *Lady Bateman*, at her House at *Fox-Hall*; one *Germaine*, a Wine-Merchant, took the House, she came thither about Midsummer, 1689. She was off and on there

there till last Michaelmas. He hath seen the Person that went by the Name of the Lady *Bateman*; and it is the Dutchess of *Norfolk*. *Goodman* was her chief Man, and his real name is *Keymer*. Her Brother, as was pretended, which he hath heard was Mr. *Germaine*, was the chief Man that came there, sometimes he came once or twice a Week, sometimes oftner; he's certain, as the Servants said, it was Captain *Germaine* that came there, every body said it was he: He knows him not by his Name, but by Hear-say; if he could see him now he could tell whether it was he; he hath not seen him since the Lady went away; he believes *Germaine* was there every Month in both the last Summers; he cannot say that *Goodman* was ever there when *Germaine* was there; he saw him several times there in *May*, *June*, *July*, and *August*, 1691. *Germaine's* own Hair was then pretty long: He cannot positively swear he was Captain *Germaine*; he supposes if he saw him now he could know him.

Witnesses Sworn on behalf of the Dutchess of Norfolk, for invalidating the Testimony of Thomas Lloyd.

Alexander Herman saith, that he served Mr. *Germaine*; he hath left his Service a Year and a half, about eight Weeks after he came from *Ireland* with the King; he served him a Year and half: Mr. *Germaine* was in *Ireland* with the King, in the Summer, in the Year 1690. He went to *Ireland* two Days before the King that Summer, he continued there four Months: he believes he went the last of *May* or the first of *June*; he came back with the King. He the Witness served him all that while in *Ireland*, and saw him every Hour and every Day, and never stirr'd from him; he came from *Ireland* in the same Ship with the Lord *Villers*, the Earl of *Manchester*, and Mr. *Felton*; and he went to *Ireland* in the *Monmouth* Yatch, with the Envoys of *Holland* and *Brandenburgh*, and the Marquess *Mompavillon*: He saith Mr. *Germaine* was at *Brussels* in *May* last, he saw him there, and spoke with him there; he saw the Lord *Villers* and the Lord *Lumley* there with him; he lodg'd in the same Tavern there with him, for four Days, and saw him not after: He the Witness, coming then for *England*, left him there. He never knew him wear his own Hair; his own Hair is dark brown: He never knew him appear abroad without a Wigg; his Hair is about half a Finger long; he wore a fair Perriwigg: He saith he, the Witness, was quarter'd in a little Tent behind him in *Ireland*; he could not stir but he heard him; h'e saith that four Weeks after he saw him in *Brussels*, he saw him walking in *St. James's Park*.

Anthony Morée saith, he was Barber to Mr. *Germaine*; the first time he shaved him was about five or six Years since; his own Hair is brown; he shaved his Head very often; he shaved him before he went to *Holland*, and since he came home; he never saw his Hair long enough to cover his Ears; nor saw he him ever wear his own Hair, but a Periwigg: He shaved him for a Year and half before and since he went for *Ireland*: He shaved him always at his own House near the Park: He or his Man shaved him ever since he came from *Holland* to this Day: He or his Man shaved him the Night before the King went for *Holland*: He saith that Mr. *Germaine*, when he went away, said it would be a Month or two before he should come back, but he knows not how long it was: This was at his House next door to the Cock-pit; he shaved him generally since the King came into *England*: He saith the Campaign was almost done when he first shaved him, after he came from *Flanders*.

Observations upon the foregoing Evidence.

Lloyd's Deposition is nothing at all to the purpose, or if it were never so pertinent, the Falsities in it are sufficient to spoil it; for in Truth his Evidence, as to Mr. Germaine's being at *Fox-Hall*, is only grounded upon Hear-say and Report: And yet he ventures to swear him to be there every Month in both the last Summers; and particularly, that he was several times there in *May, June, July, and August, 1691*. Whereas *Alexander Herman* swears, that Mr. Germaine went to *Ireland* in the Summer 1690, on the last of *May*, or the first of *June*, where he stay'd about four Months, and that himself saw and serv'd him there; and says farther, that he was at *Brussels* in *May* last. *Anthony Morée* says also, being Barber to Mr. Germaine, that he went beyond Seas, and the Campaign was almost over when he first shaved him after he came back from *Flanders*, which is a flat Contradiction to *Lloyd's* Evidence.

The next Witnesses produced by the Duke of Norfolk, were Peter Scriber, Andrew Anderson, Robert Hemming, John Reynolds and Margaret Foster.

Peter Scriber saith, that he let an House, at *Fox-Hall*, to Mr. Daniel Germaine, Mid-Summer was two Years, (*viz.*) 1689, at Twenty four Pound *per Annum*. He told him that two Ladies that were to come from *Holland* were to live there; one was Mrs. Bryan, the other the Lady Bateman; they went by the Name of Daniel Germaine's and Captain Germaine's Sisters. The Ladies came to the House about ten Days after it was Let; one Goodman, that attended them, was off and on there all the Time that the Lady Bateman lived there, which was off and on till September last: This Goodman is the same Man that was heard here the other day, as Henry Keymer he remembers not, nor can be positive that he hath seen Captain Germaine there at any time; he cannot say he knows him; he hath not seen him seven or eight Years. He saith, he, the Witness, is generally absent in the Day-time; Goodman he saith came off and on to the Lady Bateman's, from the time she came thither till the time she went away.

Andrew Anderson saith, he knew one that went by the Name of the Lady Bateman a Year and half ago, at *Fox-Hall*, from last Spring was Twelve-months till near last *Michaelmas*, but hath not seen her since; he knew one that went by the Name of Goodman that used the House; and that Goodman is Keymer; He knew a Gentleman that lived by the *Cock-Pit*, that went by the Name of my Lady's Brother, which he used to take into his Boat at *Channel-Row*, and carry to Mr. Scriber's House at *Fox-Hall*. He carried him several times backwards and forwards; since Mid-Summer he hath carried him twice; he used to carry him to the back Stairs of Scriber's House: The same day he fetch'd him, in the Forenoon, from the Parliament-Stairs, or *Channel-Row*, he carried him back in the Afternoon; he had a light Wigg. He, the Witness, hath carried Wood from Scriber's House, from the Person that went by the Name of the Lady Bateman, to the House by the *Cock-Pit*; one Nicola used to receive it into Carts, at the *Wool-Stable*: This Nicola was, he supposes, Servant to the Gentleman that lives in that House on the other side the *Cock-Pit*; he hath been at the Door but never in the House; he

he saith he bought the Wood of the Bargemen, by the Person's Order that was call'd the Lady *Bateman*.

Robert Hemming saith, he knew one that liv'd near the Dye-house in *Fox-hall*, that went by the Name of Lady *Bateman*; he saith, he was Gardner to the House near two Years since, after *Midsummer* next will be three Years; he knows not the Lady otherwise than by the name of Lady *Bateman*; he hath seen Gentlemen come there, but he knows not their Names; he knew her Servant *Goodman*; Mr. *Knolles*, that waited on the Lady, and was chief Gardner, paid him his Wages; he knew *Goodman* by no other Name.

John Reynolds saith, that he saw the Lady that went by the Name of *Madam Bateman* several times walking in her Garden, living conceal'd; that is, she lived privately, and had but little Conversation amongst her Neighbours. The sixth of *November* last, being invited to dine at a Friends at *Westminster*, he met between the Lord *Peterborough's* and the Ferry, a Lady whom he believ'd was the same Lady *Bateman*; and because he would not be under a mistake, he enquir'd of one that follow'd her, and he told him, it was the Dutchess of *Norfolk*; his business is at the next Door to *Scriber's* House; he hath seen a Gentleman walk with the Lady in the Garden, that his, the Witnesses Servants have told him, was Mr. *Germaine*, he hath known the Lady live in that place above two Years and half. He knew *Goodman*, that liv'd there, who now goes by the Name of *Keymer*.

Margaret Foster saith, she knows one *Nicola*, he's Mr. *Germaine's* Gentleman, that lives next House to the *Cock-pit*. Mr. *Germaine* hath liv'd there two Years; her Husband was his Coach-man; it's the *Royal Cock-pit* in *Park-street*, or *Cartret-street*; Mr. *Germaine* sent for her on *Sunday* Fortnight, to enquire for her Husband, who, he told her, was a Witness against him; and his Brother (who was present) told her, that his Brother did not send for her to bribe her, but to tell her Husband he should not forswear himself; for there was a Pillory.

Observations upon the Depositions of Peter Scriber, Andrew Anderson, Robert Hemming, John Reynolds, and Margaret Foster.

THESE Testimonies are all Forreign to the Charge against the Dutchess; her Graces being at *Fox-hall*, and the going under borrow'd Names, is all acknowledg'd, and the Reasons already given; besides the mistakes in them are so few and trivial, that it is not worth the while to detect them.

Jane Wadsworth Examined on the behalf of the Duke of Norfolk against the Dutchess.

Jane Wadsworth saith, that she sold Drink, and going into Mr. *Germaine's* House, a little before the King went into *Ireland*, for a Pint Pot, she saw a Dutch Woman, who bid her go up Stairs for it; and going up for it, she met the Dutchess of *Norfolk* in a Night-Gown, one side lapt over the other side, with *Flanders-lac'd* Night-Cloaths on her Head, without a Hood on: About two Hours after, *Herman*, Footman to *Germaine*, came into her House, and she saying to him, you have got the Dutchess of *Norfolk* at your House, he said, no Dutchess of *Norfolk*: I said it was she, for I had seen her some Hundreds of times: He said, it was his Master's Lady, and his Master's Dutchess, no Dutchess of *Norfolk*; why should not my Master have a Dutchess as well as
th:

the Duke of Norfolk? She hath known Mr. *Germaine* three Years next *Midsummer*, having liv'd there so long. *Herman* enquiring where I saw her, I said, upon the Stairs; he told me, I should not have gone up the Stairs; I told him, the *Dutch-Woman* bid me go up: It was about Eleven a Clock in the Day time that she saw her: He bid me say no more of it, for if his Master knew it, he would kill the *Dutch-Woman*. She saw *Welsh Frank*, about two Months since, deliver a Letter to Mr. *Germaine*, and she hath seen her go to the House often; she hath known the *Dutchess* ever since, and before she was married.

Frances Knight (examin'd before for the *Dutchess*) being called in, the Witness saith, this is the Woman that was call'd *Welsh Frank*, whom she hath often seen at Mr. *Germaine's*; she saw her, about the time the King came home from *Flanders*, give another Letter to Mr. *Nicola*, Mr. *Germaine's* Gentleman.

Witnesses produced by the Duke of Norfolk, to speak to the Credit of Jane Wadsworth.

John Prince saith, he hath known *Jane Wadsworth* Twelve Years, to be a good honest poor Woman, and of good Reputation to the best of his Knowledge; and that she takes care to maintain her Family; he believes her to be an honest Woman, and that she would not take a false Oath; he knew her at the *Horse-Ferry*, and in *Cartret-Street*.

Emery Arguies saith, that he hath known *Jane Wadsworth*, 13 or 14 years, he never knew her but of as good Reputation as any in the Parish; she is Poor, but he believes, she would not take a false Oath.

Robert Elmes saith, that he hath known *Jane Wadsworth*, 12 or 13, years, he thinks her a very honest Woman, he never heard but she was an honest Poor Woman, that endeavoured to live and maintain her Family, she is of good Reputation.

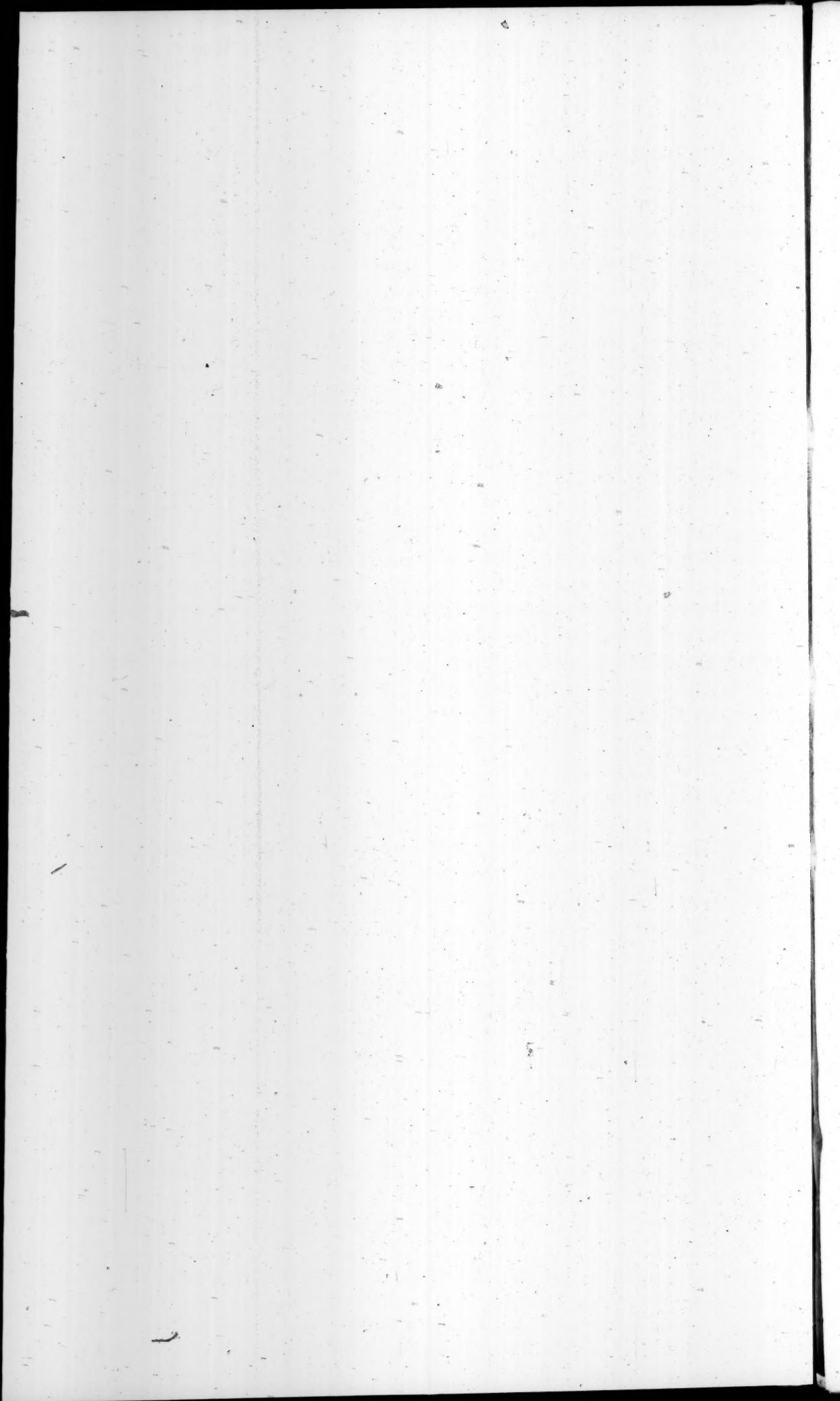
Charles Read saith, he hath known *Jane Wadsworth*, 12 years, and something better, he never knew her do an ill thing, but she was always a careful industrious Woman; he hath known her Married all that time, and she never was a Servant in that time.

Henry Dagley Senior, saith, that he hath known *Jane Wadsworth*, 16 or 17 years, she was allways a very Civil Woman, and he never heard other by her.

Witnesses Sworn on the behalf of the Dutchess of Norfolk, to the Invalidating the Testimony of Jane Wadsworth.

Race Cooke saith, that she knows *Jane Wadsworth*, she hath liv'd near her Four Years; she came into the Witnesses House with a Paper in her Hand, and ask'd her, who left it, saying, she knew nothing of it; she said, that she had said, that she had seen the *Dutchess* of *Norfolk* in Mr. *Germaine's* House, but she had not seen her a great while, and now that she had seen her, she was satisfied, that it Was nor her; and she wish'd, that she might burn in the Fire, and never go home to her Children, if she would take her Oath of it. The Paper was to warn her to this House; it was the first Night the Papers came out, that she said this, *Hosea Grimsley*, *John Hall*, and *Margaret Coudy* were present when she said this; she saith, she lives next Door but one to *Jane Wadsworth*.

John



John Hall saith, that he hath known *Jane Wadsworth* above a Year; about a Fort-night since she came into *Mrs. Cooke's*, with an Order in her Hand, but knew not who left it; and said, she could say nothing to it, *Mrs. Cooke* saying again, you must say something to it, else you had not had this Order from the House; then she said, she had been at the Duke of *Norfolk's*, and had told the Duke, that she had chanc'd to go into Captain *Germaine's* House for a Pint Pot, and she chanc'd to see the Dutchess of *Norfolk*; but she said she might be mistaken, for she had not seen her in Seven Years before, but she had seen her once or twice since; she came out of *France*, and that was none of the Dutchess of *Norfolk* which she saw on Captain *Germaine's* Stairs; whereupon *Hosea Grimsley* asking her, if she were sure it was not she, she said, she was sure it was not; she wishing that she might burn, and never go home to her Children, if she would swear it, for she could not swear it: *Hosea Grimsley*, *Grace Cooke*, and two other Women, were present in *Grace Cooke's* House, when this Discourse happen'd, which was the very Night the Order came out: He saith, he wrought in Mr. *Germaine's* House, he saw twice or thrice Ladies there in Masks; one of the Ladies in the Mask, gave Order to take down a Petition; she was reported to be Captain *Germaine's* Sister.

Margaret Coudy saith, she knows *Jane Wadsworth*, who came into *Mrs. Cooke's* the first time she was Suppœna'd, and ask'd, who left the Paper in her Hand for her; she said, she went to Mr. *Germaine's* for a Pot, and she thought she saw the Dutchess of *Norfolk* there; but she saw her since her coming from *France*, and was satisfy'd it was not her, and wish'd she might never see her Children, and burn, if ever she saw her there.

Alexander Herman saith, that he knows *Jane Wadsworth* well, he never had any Discourse with her concerning the Dutchess of *Norfolk's* being in Mr. *Germaine's* House; he saith, he hath drank often at *Wadsworth's* House, but he never had any Discourse with her concerning the Dutchess of *Norfolk*, nor never saw this Woman in his Masters House in all his life: He waited on his Master at Table, and in his Chamber, all the time of his Service, which was a Year and half; he never saw a Lady in a Mask in his Master's House.

Mary Pennington saith, that she knows *Jane Wadsworth*, she was her Servant, but not long, for she was not honest. She, the Witness, being gone out, at her return, she met her going away with her, the Witness's Linnen and her Husbands bundled up; this is about Eleven Years since.

Frances Knight saith, that she knows not *Jane Wadsworth*, nor never discours'd with her, nor never saw her at Mr. *Germaine's* House, nor did the Witness ever carry any Letters thither.

Witnesses examined on the behalf of the Duke of Norfolk, against the Credit of John Hall.

H*enry Dagley, Jun.* saith, that he knows *John Hall*, he was a Workman at Mr. *Germaine's*, when he, the Witness, wrought there; and *Hall* hath often said to him, that he believed it was the Dutchess of *Norfolk* that was there in the Mask, and that gave him Directions in his Work there; this was at Mr. *Germaine's* House in *Park-street*: He could not affirm it to be true, because she was Mask'd, but really believed it.

John Hoskins saith, that *John Hall* was employed by Mr. *Germaine*, and a Lady that was Mask'd; the Lady was the first that ever shewed him his

work, what he was to do: And the first work he did was to take down a Petition, we talking amongst our selves, that it was the Dutchess of *Norfolk*; *John Hall* has said that that Lady was the Dutchess of *Norfolk*, not that he could say so of his own Knowledge, but that he hath been often told it was so; He saith that *Hall* told him, the Day he, the said *Hall*, was examined here, that if he had been ask'd more he could have said more.

Observations upon the foregoing Evidence.

Jane Wadsworth swears, she saw the Dutchess at Mr. *Germaine's*, and what Discourse she had afterward with *Herman*, Mr. *Germaine's* Footman, and that a Dutch-Woman sent her up Stairs for a Pint Pot, by which Accident she saw the Dutchess; she says also, that she saw Welsh *Frank* deliver a Letter to Mr. *Germaine*; *Frances Knight* being produc'd, Wadsworth swears that's the Woman that was call'd Welsh *Frank*, and that she saw her give another Letter once to Mr. *Nichola*, Mr. *Germaine's* Gentleman; there are also four Witnesses produc'd for her Credit, that say they know no ill by her.

But then *Grace Cook* on the other hand swears, that *Jane Wadsworth* told her, that she thought she had seen the Dutchess at Mr. *Germaine's*, but was now satisfied that it was not she, and Cursed her self, and her Children, if she would take her Oath that it was the Dutchess: This was upon her receiving a *Subpœna*, to appear and give Evidence; *Hosea Grimfley*, *John Hall* and *Margaret Condry* were present at this Discourse.

John Hall swears, that she said that she saw the Dutchess of *Norfolk* at Captain *Germaine's*, but upon a farther sight of her, she finds she was mistaken.

Hosea Grimfley swears to the Discourse, the very words of the Curse, and the Persons that were in Company; all agreeing with the Deposition of *Grace Cook*: *Margaret Condry* swears to the very same Particulars.

Alexander Herman deposes, that he never saw Wadsworth in his Master's House, nor ever had any Discourse with her concerning the Dutchess; and he being a Person turn'd away in Disgrace from his Master, would have made no Scruple to publish any Secret of that kind, at least to swear the Truth, when upon his Oath.

Mary Pennington says, that *Jane Wadsworth* was her Servant a while, but was not honest, and that she had filched some of hers and her Husband's Linnen, and was going away with it.

Frances Knight denies the Knowledge of Wadsworth, or any Discourse with her; she never saw her at Mr. *Germaine's*, nor ever carried any Letters thither.

But here are two Witnesses brought in now to Arraign the Credit of *John Hall*, which is as much as to say that they had no Exceptions to any of the rest, or which is all one, to the Truth of the Matter; for *John Hall's* Evidence is by them confirm'd over and over: And what is it that these two Witnesses have to say at last? *Henry Dagley* says, that he believed it was the Dutchess he saw at Mr. *Germaine's*, but could not affirm it. And *John Hopkins* says, that they said it was the Dutchess, but he could not speak it of his own Knowledge, which amounts to no more than a bare Hear-say.

Witnesses Sworn on the behalf of the Dutchess of Norfolk, Intimating a seeming Reconciliation.

M*rs. Judith Stourton* saith, that she was Servant to the Dutchess of *Norfolk*, when the Report was of the Dutchess and *Mr. Germaine*, which was about a week before the Duke and Dutchess went to *France*; she was askt by the Lord *Peterborow* in the Presence of the Duke of *Norfolk*, in the Duke's House in *St. James's Square* (where they shut the door) as she would Answer it to the Face of Almighty God, if she did know whether his Daughter was an Adulteress: Her Answer was, that as she hop'd to see God in Heaven, the Dutchess was as Virtuous as any Woman alive, for ought she knew; she saith, that what she then said, is true; and if she should pretend to say more, she should wrong her: She saith, that no one was present, besides the Lord *Peterborow* and the Duke, when they Examined her; and that she saw no Shirt or Waist-coat at that time; and that she doth not remember, she said to *Mrs. Webb* any thing concerning the Dutchess and *Mr. Germaine*, and thinks she never spoke with *Mrs. Webb*; and she was not at *Windsor* when the Duke was at *Portsmouth*; she saith, there was a Report of Scandals which she was sorry for.

Edith Sawbridge and Webb, produced on the behalf of the Duke of Norfolk, to discredit the Testimony of Mrs. Stourton.

E*dith Sawbridge* saith, that the *Tuesday* following, this unhappy Discourse concerning the Dutchess of *Norfolk*; *Mrs. Stourton* came into her Chamber, and she telling her what had happen'd at *Windsor*, *Mrs. Stourton* reply'd, this is nothing but what she expected before now; the Witness reply'd, that if she the Witness had been as near the Dutchess, as she said *Mrs. Stourton*, she would have prevented all this, to which *Mrs. Stourton* answered, would you have had me whipt at the Carters-arse. The Discourse we had was, that *Mrs. Knifton* told her, when I came from *London* on *Friday* Night, that she told me she was glad I was come, for she expected her Throat to be cut every Night, since my Lord Duke went to *Portsmouth*; I askt her the Reason of her fear, she answer'd, *Germaine* had lay'd with my Lady Dutchess, ever since my Lord Duke went to *Portsmouth*; that when he came Home he would hear of it, and he would kick her for a Bawd; and if she should tell my Lord, *Germaine* would cut her Throat; I bid her have a care what she said, for these were dangerous words; how can you prove this? she said, it was very true; the Witness asking her (*Mrs. Knifton*) how she knew this; she said, *Germaine*, instead of going home, went into the Closet: The Witness cannot say, that she said all this to *Mrs. Stourton*, but the greatest part she did say, *Mrs. Stourton* said, this was nothing but what she expected before: This was the *Tuesday* after my Lord Duke came from *Portsmouth*, this was about *Bartholomew-tide*, in the first Year of King *James's* Reign.

Mrs. Stourton called in, to Confront this Edith Sawbridge, and Examined.

M*rs. Judith Stourton* saith, that she saw *Mrs. Sawbridge* once in the Duke's House in *St. James's Square*. and they talkt of the Slander of *Germaine* and the Dutchess of *Norfolk*; she saith, she the Witness, never heard
Mrs.

Mrs. Sawbridge say, that Mrs. Knifton, should say, that *Germaine* lay'd with the Dutchess every Night at *Windsor*; she denies, that she said to Mrs. Sawbridge, that she expected to hear that before now; she never said to Mrs. Sawbridge, would you have had me whipt at the Carters-arse, she saith, she remembers not, that Mrs. Sawbridge told her, that Mrs. Knifton said, that she was afraid that her Throat would have been cut, when the Duke was at *Portsmouth*; she remembers not, that she askt Mrs. Sawbridge the Reason of Mrs. Knifton's fear, or that she told her any thing of Mrs. Knifton, saying, that Mr. *Germaine* had lay'd with my Lady every Night at *Windsor*, she saw Mrs. Sawbridge, and discoursed with her, but she cannot say what Discourse she had with her.

Mrs. *Eliz. Camell* saith, that she went with the Duke and Dutchess of *Norfolk* into *France*; they went together very Lovingly, and parted so, she thinks the Duke staid with her about a fortnight; the Duke's Eye was ill, and my Lady went often to him; and when she did so, we retired; my Lady dress'd his Eye, they eat and drank together every day, they did not Lodge together that she knows; my Lord, told her at parting at the Grate in the Monastery, that he would fetch her away suddenly, and they parted kindly, Mrs. *Lawson* was in the Monastery with the Dutchess; the Witnes continued there, about seventeen Months; my Lord, exprest a great deal of Kindness to my Lady in going, and while he was there; there were Tears on both sides at parting; when my Lord and Lady were together in the House, call'd *L'Hotel de Terrau*, at *Paris*, we used to withdraw, not knowing what they had to say together.

Mr. *Matthew Scott* saith, that he paid several Sums to the Dutchess, from the Duke; in *May* 1688. he paid 125 *l.* for the Dutchess, to Mr. *Cragg*; he paid 2 or 300 *l.* into *France*, when the Duke and Dutchess were there; he cannot say, that he remitted any Money into *France*, after the Duke came home; he knows not that any Money was paid to Mr. *Morton* for my Lady, by the Duke's Order.

Mr. *Robert Welborne* saith, that about the middle of *November* last, the Duke of *Norfolk* sent for him by Mr. *Scot*, to meet his Grace in his Room, by the Lords House, which accordingly he did; his Grace told him, there had been some Messages and Proposals, by Sir *Robert Clayton* and Sir *Robert Howard*, but he lookt on them both, to be Men of great Business, and could not attend on such Matters, and therefore he sent for him, knowing him to be willing, to do any Services between them. The first thing his Grace desired, was to acquaint his Wife, and the Lady *Peterborow*, and he thinks he Named the Lord *Peterborow*, that he expected to be Indemnified from the Dutchess's Equipage; for, says he, I hear she is setting up for a great Equipage, and I desire to be free from being obliged to pay for any of that; he told his Grace, that he thought he was misinform'd, for all the Equipage he saw, was a Coach, Coach-man, two Foot-men, a pair of Horses, and two or three more Servants; but, says his Grace, I formerly paid Money for her, to one *Mourton*, and should be unwilling to do so again; I presume my Lord Duke, said he, that was a Debt contracted, while your Grace and the Dutchess lived together; but says his Grace, pray do you acquaint them of it, for this is what I expect.

Next, says his Grace, my Wife has some pretentions upon *Castle-Rising*, which I could Sell without her Consent, by losing Two Thousand, or Two Thousand Five Hundred Pounds; and besides, I find she hath also a pretention upon
Billing,

Billing, which I never knew till very lately, when I was upon Selling of that Reversion; but, I should have been an ill man, to pretend to do that if I had known of any such Incumbrance. Therefore, I would have you tell my Wife, that if she will consent to the Sale of those Estates and make me easy in that particular; let her consider, wherein I may make her easy, and I shall do it: I know she was a great Lover of *Drayton*, and I suppose is so still; and she did once offer me a considerable Sum of Money for my Life in it; therefore let her consider of this Matter, and if she can propose any thing for her ease and quiet, on these Terms, I shall comply with her.

I do not say to threaten her: But I am told, that for the Reason of there being either One and Twenty, or Two and Twenty *Catholick* Heirs of my Family before One *Protestant* One; if I would bring in a Bill of Divorce, I should obtain it on that account; he told his Grace he should be sorry to hear of any such thing: But in Obedience to his Grace's Commands, he would acquaint the Dutchess with it; accordingly he did, the same day, and Lady *Peterborow* both; her Grace was very angry at the Message, especially at that part that mentioned a Divorce; and he was sent the next Morning to Mr. *Scott*, to desire him to acquaint the Duke, that as he was my Lord *Peterborow's* Servant, it was not fit for him to receive nor bring such Messages. But if his Grace had any thing to say, it was most proper, by a Servant of his own, or to send for one of hers. I carried the Message the next Morning to Mr. *Scott*, and at my return Home, the Dutchess shewed me a Letter she had Writ to the Duke, to the same purpose, and which was sent to his Grace, but not by him; the Dutchess did declare, when he proposed the Sale of *Castle-Rising* and *Billing*, as the Duke had desired, that she would never Consent to it. By any of this Discourse it did not appear to him, that the Duke showed any Inclinations to live with the Dutchess, nor did he understand it so,

Observations upon the Depositions of Mrs. Judith Stourton, Edith Sawbridge, Elizabeth Camell, Mr. Mathew Scott and Mr. Robert Welborne.

THE Reader, will find this Discourse about Mr. *Germaine* and the Dutchess, to be a Scandal of a matter of Six Years standing; *Hudson*, a Cast Footman, has sworn to the Shirt and Waistcoat, and that he immediately told my Lord of it. *Ann Burton* swears likewise (with another false Oath between her Teeth) that this Shirt and Waistcoat were sent by the Duke to the Lord *Peterborows*. It follows now to be noted, what course has been taken from the First to the Last, for a thorough Discovering of the Truth of this Matter, and now it comes to pass that the Thunder-Bolt should hang in the Air, so many Years, after the Breaking of the Cloud.

Mrs. Stourton is here upon her double Oath, first under the Shrift of the Duke and my Lord *Peterborow*, who took her privately and Adjured her, as ever she hoped to see God in Heaven, to declare what she knew as to the Dutchess being an Adulteress, she purg'd her self upon her hopes of Salvation, that the Dutchess was as Vertuous as any Woman alive for ought she knew; she swore the same thing over again at the Bar of the House of Lords; and being Interrogate about the Shirt and Waistcoat before spoken of, she swore likewise, that she saw no Shirt or Waistcoat at that time.

L

Edith

Edith Sawbridge was now produc'd against the Credit of *Mrs. Judith Stourton*, and lays the stress of her Evidence upon what *Mrs. Kniffon* said, which has been the very Pinch of the Question throughout the whole Cause, and the Prosecution has still been at a Fault when it came to any material Point; that is to say, only the Hear-say Witnesses are produced, and those that can speak upon Knowledge, and positively to the Fact, are withdrawn, or conceal'd, contrary to the Practice and Reason of all Judicial Proceedings.

Mrs. Stourton is called in again to confront *Edith Sawbridge*, and denies every Article in her Deposition, one by one, that is of any moment; but at the same time there appears no Exception, on the other hand, to the Credit of *Mrs. Stourton*: Neither is it to be imagin'd, that any Woman should dare to swear false, in a Case where two such Witnesses should be privy to the Perjury.

It follows now to be noted, what Course has been taken for a thorough Discovery of this Intrigue, according to the usual Methods of Honour and Justice. The Examination of *Mrs. Stourton* by the Duke and my Lord *Peterborow*, was as solemn, strict and private as the Case required; and it was while the Clamour was fresh too: So that there was no Time lost when they enter'd upon the Scrutiny. It will be seen in that which follows, by what degrees the Heat of this Calumny cool'd, and what brought it on again.

The Duke and Dutchess went for *France* together, about a Week after the Breaking out of this Clamour, and *Elizabeth Camel* waited upon the Dutchess; who swears, that they went lovingly together, and parted with Tears on both sides; my Lord telling her Grace at Parting, that he would fetch her away suddenly. They eat and drunk together every Day, and were frequently together in private; but she cannot say they lodg'd together. So that thus far, in all outward Appearance, the Mis-understanding seem'd in some measure to be compos'd.

Mrs. Scot speaks only to the matter of Monies, and Accounts, which is little or nothing to the purpose in this place, except only as to the One Hundred Twenty and Five Pounds, mentioned to be pay'd by him, for the Dutchess's use; which was a Quarterly Payment out of Five Hundred Pounds *per Annum*, adjudged and ordered by the High-Commission Court to be pay'd to her, in lieu of Alimony.

But Mr. *Robert Wellborne* comes to the very Merits of the Cause, and the present State of the Question. He deposes, that in *November* last the Duke sent for him, and told him (among other things by the by) that the Dutchess had some Pretensions upon *Castle-Rising*, and also upon *Billing*; and thereupon order'd the Witness to give her Grace to understand, that if she would consent to the Sale of those Estates, and make the Duke easie in that particular, let her but consider wherein he himself might make the Dutchess easie too, and upon those Terms he would do it.

His Grace told the Witness farther, that there being One or Two and Twenty Catholick Heirs to the Family, before one Protestant Heir, if (says his Grace) I would bring a Bill of Divorce, (I do not say it to threaten her) I could obtain it on that Account. The Witness acquainted both the Dutchess and the Lady *Peterborow*, the very same Day, with the substance of this Message, her Grace taking it very heinously to be told of a Divorce; and the next Day the Dutchess shew'd the Witness a Letter she wrote to the Duke upon this Occasion; declaring, that for *Castle-Rising* and *Billing*, she would never part with them.

It

It appears from hence, that upon the Examination of Mrs. *Stourton*, and other necessary Enquiries into the grounds of this Scandal, the violence of the first Impression was so far taken off, that according to the Evidence of *Elizabeth Camel*, my Lord was pleased to treat the Dutchess with all Instances of Tenderness and Respect, both upon their Passage into *France*, and upon the Places there, those of the Bed only excepted. In this state Matters have continued some five or six Years now, without any Speech or Thought of a Divorce, that ever the Dutchess heard of till Mid-November last, in a Message by Mr. *Welborne* from the Duke, and that was but upon a certain Condition neither, however it was improved afterwards into a Bill, that upon the seventh of *January* following was formally brought into the Lords House.

The Reader will need no other Light to a true understanding of the Strait her Grace was in, upon this Surprise, and the Disadvantages she was exposed to, than what he has here before him, in the Order of the Journal it self: Where he will find the Dutchess so scanted for time to produce Witnesses, and prepare her Defence, that it was a wonderful Providence she should do so much as she did. Though in the mean while, her Grace has lost the benefit of several considerable Witnesses, for want of time to find them out, and bring them together. Now as for Mr. *Welborne's* Deposition, it carries the Countenance rather of a Treaty than an Accusation; the Duke's part is only a calm deliberate Discourse, consulting the Reciprocal Ease both of himself and of the Dutchess. Terms are proposed and promised, and not one Word or Glance of Reproach from one end to the other of it. Mr. *Welborne* (upon the Duke's asking him, at the Lord's Bar, if by his Discourse he understood an Inclination to live with the Dutchess) 'tis true, did not gather from his Words, as if he had any thought of living with her; the only hard thing said, was that about his Catholick Heirs, which seem'd to turn the Case of Adultery into a Case of Religion. Let any Creature judge now, whether the Dutchess durst to have stood it out thus, if she had been guilty of so foul a Crime, when she might have been safe and free, as appears by the Proposal, upon Terms so much more easy.

To make a short Summary now of the Whole, a Word first to the Character and Quality of the Witnesses.

There is *Owen*, a Street-Porter, brought in as a Witness to the Privacies of the Dutchess's Bed-Chamber, besides several unanswerable Exceptions to the Particulars of his Evidence. There is *Ellwood*, a Coblers Wife, and a Gilt-ing little Slut, that's as palpably detected of Falsity, as the other. *Hudson*, a poor Roguy, Tricking Footman, that was turn'd off for his ill Behaviour. *Burton*, a beggerly Wench, that cheated her Landlady, and forswore her self in this Cause at the Lords Bar: *Varellst*, a Painter, and by Intervals, a Mad-man: *Foster*, a Coachman that was turn'd off by his Master, and swore to be reveng'd of him. *Lloyd*, under several manifest mistakes, but nothing to the main Cause. *Scriber*, *Anderson*, *Hemming*, *Reynolds*, and *Margaret Foster*, say not one word to the purpose: *Wadsworth*, a pilfering Servant, that robb'd her Mistress, and her Evidence most notoriously expos'd.

Now, as these Witnesses are of very little value upon the Stock of their own Credit, so the Witnesses against them cannot be deny'd to have a fair Reputation, on the other hand. And it is very extraordinary, that after the naming of so many Persons in their Depositions, that said, or did, or heard,

or

or saw this; or that the Prosecutors have not brought in so much as one Creature to second the Swearing Evidence: Tho' it is sufficiently known, they could have found them if they would have ventur'd the Cause upon that stress. It is to be consider'd once more, what a difference there has been, betwixt the Demeanour of the one side and the other, towards the Evidence. What Promises, Flatteries, and engaging Obligations on the one hand, and not so much as one Word or Deed, directly or indirectly, that look'd like a Practice or a Prepossession on the other part of the Dutcheſs.

Let this be taken in the softest sense, for it is a great Misfortune, when officious Instruments that are forewarn'd to broach Scandals, meet with easie and good natur'd Dispositions, that are too open perhaps to receive them. This may serve in some measure, perhaps, to remove the Evidence of those that are not wilfully Deaf and Blind; and for the rest, it is left to Time and Providence to bring the Truth to light in its due season, and to vindicate the Cause of the Innocent and Oppressed.

F I N I S.

ADVERTISEMENT.

THis Account of the Proceedings before the House of Lords by the Duke of Norfolk against the Dutcheſs, with her Defence, was deſign'd to have been Publiſhed ſoon after the Determination of the Cauſe in February, 1691: But that there might be no Offence given to the Duke, It was thought adviſable to ſuſpend it.

But ſince that, albeit the Dutcheſs did take ſuch care not to give the Duke any manner of Offence; yet he thought fit to bring his Action againſt Mr. Jermaine (in hopes of a new Foundation to proſecute the Dutcheſs) and did obtain a Verdict in the Court of King's Bench in November laſt, and a 100 Marks Damages: In which Action the Dutcheſs was no Party, nor could any Defence be made for her there.

Now in this Cauſe, the Witneſſes produced by the Duke were the ſame that were examined before the Lords when the Bill was firſt Rejected, and the Dutcheſs Acquitted, and particularly Owen, Elwood, Burton, and Hudſon, who ſpoke to Matters in 1685. But the moſt Material of the Dutcheſſes Witneſſes, who could have confronted them, were not produced at the Tryal; becauſe thoſe Witneſſes of the Duke did ſpeak of things not in Iſſue, and therefore thoſe of the Dutcheſſes were thought unneceſſary in that Cauſe, ſpeaking to things out of that time to which the Duke had confin'd himſelf by his own Declaration: And though there were two or three new Witneſſes produc'd by the Duke at the Tryal, yet nothing of Fact pretended to be was proved. And though it was impoſſible to ſpeak any thing to the Diſcredit of thoſe Witneſſes then, yet by Enquiry ſince, they are found to be of no better Reputation than the firſt, (as in due time may appear.) And particularly as to Bowtell (to ſay no more at preſent) he ſtands upon the Journal of the Houſe of Commons to have given an untrue Information againſt Captain Motley, and upon it was Ordered to be taken into Cuſtody, who afterwards petition'd to be diſcharg'd, and being brought to the Bar, and owning his Fault, had a Reprimand by the Speaker, and at length diſcharged paying his Fees.

Now upon the Reputation of this Verdict, though the Dutcheſs was no Party, nor her Witneſſes examined as aforeſaid, yet the Duke was pleaſed to offer a new Bill to the Lords the 22th of December laſt, for Diſſolving the Marriage, &c. But the Debate for Receiving or not Receiving it was adjourn'd to the 29th following, and from thence to the 31th, and from thence to the ſecond of January, when after a long and ſerious Debate, The Bill was again Rejected: So that now it may not be thought Impertinent for this true Account to appear to the World.

ERRATA.

Page 1. line 24. read Improbability. p. 13. l. 30. r. Depoſitions. p. 14, 15, 16. for Keymer r. Keymer. p. 23. l. 1. for Purſell r. Parnell. p. 24. l. ult. add of this. p. 26. l. 27. for that r. where. p. 32. l. 6. r. Huſh-money. p. 41. l. 16. dele was very Grace. Ibid. l. 39. for now r. how. p. 42. l. 29. for Mrs. r. Mr. p. 44. l. 10. r. forward. Ibid. l. 12. dele perhaps, for Evidence r. Prejudice.

E. H. H.
1/22/12.